

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6921 OF 2017

Smt. Noorjan Samshuddin Bhanvadiya & Ors. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents

Ms. Vrushali L. Maindad a/w Ms. Manali P. Sawant and Ms. Akshada C. Mundhe for Petitioners.

Mr. N. C. Walimbe, Addl. G. P., a/w Mrs. Tanu N. Bhatia, AGP for Respondents-State.

Mr. Mayur Khandeparkar, Amicus Curiae, a/w Mr. Raghav Dharmadhikari.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

**RESERVED ON : 25th MARCH 2026
PRONOUNCED ON : 8th JUNE 2026**

Judgment (*Per Manish Pitale, J.*) :

. A widow and two children of a deceased are petitioners in this petition, seeking compensation from the respondents i.e. the State and its officers, as the deceased, being the husband of the petitioner No.1 died while in the care and custody of the Yerwada Mental Hospital (a State Government run facility), due to a violent attack launched by another patient in the said hospital. According to the petitioners, the State is liable to pay monetary compensation to them as the aforesaid incident would not have occurred, but for the gross negligence exhibited by the State and its officers, while

the deceased was in their custody as an inpatient in the Yerwada Mental Hospital.

2. The deceased husband of petitioner No.1 was a real estate agent and he was running his business from an establishment, which was duly licensed under the Shops and Establishment Act, 1948. He was suffering from bouts of schizophrenia, due to which he was undergoing treatment at a hospital in Pune. Thereafter, he was admitted at the Yerwada Mental Hospital, as per medical advice. The petitioner No.1 was informed that her husband would be completely cured within a reasonable period, after treatment at the Yerwada Mental Hospital. Accordingly, the husband of petitioner No.1 was admitted to Yerwada Mental Hospital on 19.11.2013 for treatment.

3. On 21.11.2013, the petitioner No.1 was informed by the respondents that her husband was killed by another inmate in the hospital in the previous night. She was shocked to receive the said news. Further information revealed that during the previous night, another patient in the hospital named Deepak Suravase became violent and assaulted the husband of petitioner No.1, as also another patient. It is an admitted position that the duty attendant found that the said Deepak Suravase was violently hitting the husband of the petitioner No.1 in the observation ward and he was also throttling him. As a consequence of the said violent attack, the husband of petitioner No.1 died. The postmortem report of the said deceased revealed serious injuries to his head

and face and the cause of death was recorded as death due to head injury and throttling. The other patient assaulted by the accused Deepak Suravase also died due to head injuries.

4. In this backdrop, the petitioner No.1 was constrained to approach the respondents for further information and details regarding the said incident and the number of attendants and staff on duty when the incident took place. The response of the Public Information Officer of the Yerwada Mental Hospital revealed that sufficient staff was not on duty. It was one of the reasons why the incident took place. The petitioner No.1 also found that there was delay in informing the Police about the incident and that earlier also such incidents had taken place in the Yerwada Mental Hospital. The incident was widely reported in newspapers.

5. In this backdrop, the petitioners filed this writ petition alleging negligence on the part of the respondents and praying for payment of monetary compensation to the tune of Rs.29,30,000/-, terming the death of husband of petitioner No.1 as custodial death, as he was in the care and custody of the respondents-State Authorities.

6. On 03.05.2018, a Division Bench of this Court recorded a statement made on behalf of the respondents-State Authorities that in pursuance of an order passed by the Lokayukta, the respondents-State Authorities are ready and willing to pay an amount of Rs.1,00,000/- to the petitioner No.1. It was also recorded that amount would be paid within two weeks. It is an

admitted position that such an amount of Rs.1,00,000/- was paid to the petitioner No.1 on 28.06.2018.

7. Respondent Nos.1 to 3 filed their reply affidavit in the writ petition. The incident causing the death of the husband of the petitioner No.1 was conceded and it was also conceded that the two patients, including the husband of petitioner No.1, died due to violent attack by the aforementioned accused Deepak Suravase. It was stated that the said Deepak Suravase was suffering from poly substance addiction with psychosis, due to which he became suddenly violent and aggressive on trivial matters. It was further admitted in the reply affidavit that at the time of the incident, which took place during the night, there were only three attendants on duty, while there were 72 patients in the observation ward in the Yerwada Mental Hospital. Yet, the compensation claimed by the petitioners was not admitted and it was further submitted that departmental enquiry was conducted and that appropriate action would be taken against the responsible persons.

8. It is a matter of record that FIR was registered against the said Deepak Suravase, but further criminal proceedings have remained in abeyance in the light of the fact that he suffers from mental illness and that he is undergoing treatment.

9. Ms. Vrushali L. Maindad, learned counsel appeared for the petitioners and Mr. N. C. Walimbe, learned Additional Government Pleader (AGP) appeared for the respondents and its Authorities/Officers. Although, necessary assistance was provided

by them, considering the nature of issues arising in the petition, this Court appointed Mr. Mayur Khandeparkar, learned counsel, as *amicus curiae*, to assist this Court.

10. Ms. Maindad, learned counsel appearing for the petitioners submitted that since fundamental right of the deceased was violated under Article 21 of the Constitution of India, which had a direct adverse impact on his surviving family members i.e. the petitioners herein, the present petition was maintainable for seeking monetary compensation and that this constituted a public law remedy recognized by the Supreme Court and this Court from time to time. The learned counsel for the petitioners referred to judgments of the Supreme Court from the case of *Rudul Sah vs. State of Bihar & Anr.*, (1983) 4 SCC 141 onwards, to contend that Constitutional Courts, including this Court, exercising writ jurisdiction under Article 226 of the Constitution of India, has the power and authority to grant monetary compensation to the petitioners in the light of the obvious violation of the rights of the deceased and the petitioners, due to the negligence demonstrated by the respondent-State, in the facts and circumstances of the present case.

11. It was submitted that in terms of the law laid down on this aspect of the matter, the result of the criminal proceedings initiated against the accused was irrelevant and that in such matters payment of compensation and restitution ought to be provided to the petitioners by the State, in the interest of justice.

In this context, the learned counsel for the petitioners relied upon a number of judgments, to which this Court will make a reference while considering the rival submissions. It was indicated that this Court may consider precedents wherein Courts had granted monetary compensation in cases of custodial death and also consider applying formulae devised by Courts for calculating payment of compensation under various laws. It was submitted that this is necessitated as there is no statute governing such situations, where a person loses his life in a Government run mental hospital facility, while undergoing treatment, due to the negligence on the part of the State.

12. It was emphasized that such monetary compensation is all the more necessary in the facts and circumstances of the present case, as the petitioner No.3, who is the son of the deceased and petitioner No.1, himself suffers from 90% mental disability. A certificate to that effect is also placed on record to support the said submission. On this basis, it was submitted that the writ petition ought to be allowed for the amount of compensation indicated in the prayer clause.

13. Mr. Walimbe, learned AGP, submitted that it was indeed an unfortunate incident that led to the death of the husband of petitioner No.1, while undergoing treatment in the Yerwada Mental Hospital. It was submitted that the number of attendants on duty in the said hospital, at the relevant time, as divulged in the affidavit in reply, could be said to be meeting the then specified

norms. It was submitted that the State itself had issued various Government Resolutions and Circulars to deal with such situations and even if this Court were to hold in favour of the petitioners, the quantum of monetary compensation ought to be within the parameters indicated in such Government Circulars/Notifications/Resolutions. In this context, reference was made to notification dated 11.04.2014 issued by the respondent-State under Section 357A of the Code of Criminal Procedure, 1973 (Cr.P.C.), framing the Maharashtra Victim Compensation Scheme, 2014. It was submitted that under the said notification and scheme, monetary compensation of Rs.2,00,000/- was specified for loss of life of the victim. Government Resolution dated 28.04.2025 specifically pertains to custodial death of individuals. It was specified in the said Government Resolution that a compensation amount of Rs.5,00,000/- would be payable in cases of custodial death. It was further submitted that this Court may take into account the said policies of the State while disposing of the writ petition.

14. On the allegation of negligence, it was submitted that the material on record did not demonstrate any negligence on the part of the State or its officers. After the incident, the victims were taken for medical treatment, but unfortunately they expired. The matter was reported to the police and an FIR was registered, followed by investigation. It was further submitted that a departmental enquiry was conducted to determine the responsibility of the concerned persons, so that appropriate action

could be taken. It was submitted that this Court may take into account the aforesaid steps taken by the said authorities while disposing of the writ petition.

15. Mr. Khandeparkar, learned *amicus curiae* submitted that the State clearly had a duty to take care and that the present incident demonstrated violation of right under Article 21 of the Constitution of India, for which remedy of redressal in the form of monetary compensation was available by approaching this Court under Article 226 of the Constitution of India. The learned *amicus curiae* also referred to the series of judgments of the Supreme Court in various cases, including *Rudul Sah vs. State of Bihar & Anr.* (supra), *D. K. Basu vs. State of West Bengal*, (1997) 1 SCC 416, as also in the case of *Suresh and Anr. vs. State of Haryana*, (2015) 2 SCC 227, to bring to the notice of this Court that the principle of victim compensation as a public law remedy with reference to Article 21 of the Constitution of India was well recognized and that this Court was clearly entitled to exercise power to appropriately compensate the petitioners as the surviving family members and dependents of the deceased. He also referred to Section 357A of the Cr.P.C. and in that context, judgments of this Court, including judgment in the case of *Vishnu & Ors. vs. State of Maharashtra & Anr.*, 2023 SCC OnLine Bom 562, which followed judgment of the Supreme Court in the case of *Suba Singh vs. State of Haryana*, (2006) 3 SCC 178.

16. As regards quantum of compensation, the learned *amicus*

curiae submitted that this Court may consider the aspect of restitution and compensation, as followed by the Supreme Court in various judgments. The aforesaid principles found their origin in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, issued by the United Nations (UN) General Assembly.

17. In this context, he also submitted that this Court may consider referring to the formulae adopted by Courts while determining compensation in the context of motor accident claims. It was submitted that although the said formulae indeed had statutory basis in a different context, in the absence of any specific statutory framework or otherwise for determining quantum of compensation in such cases concerning duty to take care of the State and negligence in that context, this Court may consider applying the said formulae loosely to reach a figure of monetary compensation that would sufficiently compensate the petitioners, who are also victims of the said ghastly incident. It was submitted that the State could not insist upon the amounts of compensation specified in the notifications and Government resolutions, upon which the learned AGP had placed reliance. In that context, the learned *amicus curiae* placed before this Court various alternative figures of monetary compensation based on applying formulae evolved by Courts from time to time.

18. It was further submitted that although the respondents-State had referred to an administrative enquiry being conducted for

ascertaining responsibility of personnel for the said incident, no further details were placed on record. It was submitted that this Court may consider issuing a direction for foisting the liability of such monetary compensation on the defaulting officers and personnel of the respondents-State in the Yerwada Mental Hospital, so that it would have a deterrent effect to prevent further such incidents. In that context, the learned *amicus curiae* invited attention of this Court to the requirement of minimum staff and personnel at the relevant time under the State Mental Health Rules, 1990, framed under the Mental Health Act, 1987, to contend that in the facts of the present case, the rules were violated, thereby indicating that the State and its responsible officers were liable to pay appropriate monetary compensation to the petitioners.

19. We have considered the rival submissions. We find that the aforesaid ghastly and unfortunate incident, leading to the death of the husband of petitioner No.1 and the father of petitioner Nos.2 and 3, has been admitted by the respondents. It is specifically conceded that the aforesaid patient/accused Deepak Suravase violently attacked the husband of petitioner No.1 and another patient, leading to their death. The postmortem report of the deceased husband of petitioner No.1 reveals the serious injuries suffered on the head and face, due to the blows inflicted upon him and that his death occurred due to head injury and throttling. It is an admitted position that the deceased husband of petitioner No.1

was in the care and custody of the Yerwada Mental Hospital, which is a facility run by the respondent-State Government. It was the duty of the respondent-State to ensure safety of all the patients undergoing treatment in the said mental hospital by providing adequate facilities and staff. We find that as per Rule 22 of the State Mental Health Rules, 1990, framed under the Mental Health Act, 1987, which were in force, at the relevant time when the incident took place on 20.11.2013, required attendant to patient ratio of 1:5, apart from other requirements of providing adequate medical officers and mental health professionals.

20. Although, the said Rule pertains to minimum facilities for out-patients, the respondent Nos.1 to 3 in their reply at paragraph 13 conceded that as per norms there was requirement of 1 attendant for every 5 patients. The contents of the said paragraph 13 of the affidavit in reply further show that there were only 13 attendants on duty in the observation ward of the mental hospital, where the husband of petitioner No.1 was admitted. It was also conceded that there were only three attendants on duty at night for the 72 patients in the observation ward. It is obvious that the strength of the attendants was woefully inadequate, apart from the fact that it violated the 'minimum facilities' for patients in the mental hospital. On this score itself it is evident that the respondent-State failed in its duty to take sufficient care of the patients in the Yerwada Mental Hospital, including the deceased husband of petitioner No1.

21. Apart from this, it is evident that the authorities concerned with the Yerwada Mental Hospital, which is a Government facility, did not take care to ensure that violent patients like the said accused Deepak Suravase were segregated from other patients in the observation ward. This was the basic minimum expected from the concerned officers of the Yerwada Mental Hospital. Failure to do so led to the said incident, wherein two persons died due to the violent attack, including the deceased husband of petitioner No.1. We are unable to agree with the respondents about their claim that there was no lapse of administration on the part of the hospital authorities. We find that gross negligence on their part is evident from the admitted facts, requiring no further evidence in the matter. The petitioner No.1 had to move under the Right to Information Act, 2005, to obtain information with regard to the number of doctors and attendants on duty at the relevant time. Her pleas fell on deaf ears and she was not granted any relief despite the shocking incident and the consequent adverse impact on the petitioners, as the surviving widow and children of the deceased.

22. We find that the petitioner No.1 is not only faced with the difficult situation of fending for herself and her children due to the sudden demise of her husband, she is also required to take full time care of her son i.e. petitioner No.3, who is himself suffering from 90% mental retardation. This is evident from the document at Exhibit 'H', which is a certificate issued by a Committee of

Government Doctors, certifying that he suffers from severe mental retardation of 90% and that he is unable to earn independently. The certificate also specifically states that his condition is permanent, non-progressive and unlikely to improve. This is another crucial aspect of the matter, which this Court is inclined to take into consideration while deliberating upon the aspect of determining compensation to be paid to the petitioners.

23. The learned *amicus curiae* invited attention of this Court to various judgments concerning payment of compensation under criminal law and public law. Before going into the aspect of determination of monetary compensation, it would be appropriate to refer to the approach adopted by the Supreme Court and this Court in circumstances where the State is found to be responsible for incidents of death and entitlement towards compensation to the survivors and family members of such victims.

24. In the case of ***Rudul Sah vs. State of Bihar & Anr.*** (supra), the Supreme Court was concerned with the question of granting monetary compensation to the petitioner who had suffered illegal detention at the hands of respondent-State for over 14 years. The Supreme Court found that although a money claim could be agitated and adjudicated upon in a proceeding instituted before the Competent Court, nothing prevented exercise of writ jurisdiction for payment of monetary compensation, consequential upon the violation of a fundamental right. In this context, by relying upon Article 21 of the Constitution of India, the Supreme

Court proceeded to grant monetary compensation to the petitioner.

25. In the case of *Nilabati Behera (Smt) alias Lalita Behera (through the Supreme Court Legal Aid Committee) vs. State of Orissa & Ors.*, (1993) 2 SCC 746, while referring to and relying upon the aforementioned judgment in the case of *Rudul Sah vs. State of Bihar & Anr.* (supra) and in the context of monetary compensation to be paid for violation of fundamental rights, the Supreme Court observed as follows :

“33. The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much as protector and guarantor of the indefeasible rights of the citizens. The courts have the obligation to satisfy the social aspirations of the citizens because the courts and the law are for the people and expected to respond to their aspirations.

34. The public law proceedings serve a different purpose than the private law proceedings. The relief of monetary compensation, as exemplary damages, in proceedings under Article 32 by this Court or under Article 226 by the High Courts, for established infringement of the indefeasible right guaranteed under Article 21 of the Constitution is a remedy available in public law and is based on the strict liability for contravention of the guaranteed basic and indefeasible rights of the citizen. The purpose of public law is not only to civilize public power but also to assure the citizen that they live under a legal system which aims to protect their interests and preserve their rights. Therefore, when the court moulds the relief by granting “compensation” in proceedings under Article 32 or 226 of the Constitution seeking enforcement or protection of fundamental rights, it does so under the public law by way of penalising the wrongdoer and fixing the liability for the public wrong on the State which has failed in its public duty to protect the fundamental rights of the citizen.

The payment of compensation in such cases is not to be understood, as it is generally understood in a civil action for damages under the private law but in the broader sense of providing relief by an order of making ‘monetary amends’ under the public law for the wrong done due to breach of public duty, of not protecting the fundamental rights of the citizen. The compensation is in the nature of ‘exemplary damages’ awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.”

26. Thereupon, the Supreme Court granted monetary compensation to the petitioner.

27. In the case of ***D. K. Basu vs. State of West Bengal*** (supra), a case concerning custodial violence, the Supreme Court referred to the aforementioned earlier judgments and observed as follows :

“44. The claim in public law for compensation for unconstitutional deprivation of fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for tortious acts of the public servants. Public law proceedings serve a different purpose than the private law proceedings. Award of compensation for established infringement of the indefeasible rights guaranteed under Article 21 of the Constitution is a remedy available in public law since the purpose of public law is not only to civilise public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved. Grant of compensation in proceedings under Article 32 or Article 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Article 21, is an exercise of the courts under the public law jurisdiction for penalising the wrongdoer and fixing the liability for the public wrong on the State which failed in the

discharge of its public duty to protect the fundamental rights of the citizen.

54. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit.”

28. Thus, the aforementioned position of law makes it abundantly clear that the present writ petition filed by the petitioners seeking monetary compensation, in the facts and

circumstances of the present case, is clearly maintainable. The admitted position on record shows that the State failed in its duty to take care and failed in its public duty, resulting in violation of fundamental rights, thereby demonstrating that the petitioners are entitled to approach this Court for a public law remedy to seek monetary compensation. We find that the husband of petitioner No.1 was admitted to the Yerwada Mental Hospital for treatment, as a patient on professional advice. He was admitted and kept in the observation ward on 19.11.2013 and immediately thereafter in the night of 20.11.2013, the aforesaid violent incident took place, due to which he died. The said accused Deepak Suravase was admitted in the said hospital on 13.11.2013 and despite his tendency towards violent behaviour, he was kept along with other patients, including the husband of petitioner No.1, in the same observation ward. This in itself shows the gross negligence and failure of the duty to take care on the part of the State authorities, which contributed towards the said ghastly incident, leading to the death of the husband of petitioner No.1. The fact that there were only three attendants in the night when the incident took place, for the 72 patients in the observation ward of the hospital, further demonstrates the grossly negligent manner in which the respondents-State Authorities were managing the affairs of the said mental hospital. The husband of petitioner No.1 was in the care and custody of the respondent-State and therefore, the State is clearly responsible for the violation of fundamental rights of the said deceased and consequentially, the rights of the petitioners as

the deceased was the only breadwinner of the family.

29. Hence, the petitioners are entitled to seek public law remedy by filing the present writ petition and to demand monetary compensation from the respondent-State for the loss of life and continuing suffering inflicted upon them. The determination of monetary compensation and its quantum in such circumstances is not governed by any specific statute. Although, the entitlement of the petitioners is clearly made out, a specific framework for determining the quantum of compensation is not readily available. It is for this reason that the learned counsel for the petitioners as well as the learned *amicus curiae* referred to various judgments of Courts concerning compensation for custodial death, compensation as determined under the scheme framed as per Section 357A of the Cr.P.C. and also formulae evolved by the Courts for determining quantum of compensation on the income of the deceased and other such factors under the law pertaining to motor accident claims.

30. This Court is of the opinion that once a conclusion is reached that the petitioners are indeed entitled to compensation from the respondent-State, reference can indeed be made to the aforesaid judgments and the principles evolved therein for ascertaining the quantum of monetary compensation payable to the petitioners.

31. In the case of *Suresh and Anr. vs. State of Haryana* (supra), the Supreme Court while confirming conviction of the accused for

abduction and murder of two individuals, deliberated upon applicability of Section 357A of the Cr.P.C. in order to grant monetary compensation to the victims and the survivors. After referring to earlier precedents on the matter, as also judgments from overseas jurisdictions, the Supreme Court also referred to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, issued by the UN General Assembly. The said Declaration referred to concepts of 'restitution' and 'compensation'. The said Declaration specified that when public officers violated laws, the victims were entitled to receive restitution from the State. As regards compensation, it was emphasized that financial compensation ought to be paid by the State to the family, in particular to the dependents of persons, who had died or had been incapacitated as a result of victimization. The various components of compensation were identified as compensation for physical or mental harm, lost opportunities, including education, loss of earnings, harm to reputation and dignity and the costs for legal and medical services. Thereupon, reference was made to various reports of the law commission and Section 357A of the Cr.P.C. Reference was also made to judgment of the Punjab and Haryana High Court in the case of *Rohtash @ Pappu vs. State of Haryana (judgment and order dated 01.04.2008 passed in Criminal Appeal No.250 of 1999)* to emphasize that determination of monetary compensation to the victims ought not to be dependent on punishment of the guilty. It was emphasized that the victims had a right to get justice through monetary

compensation, independent of the right to retribution as the responsibility of the same is assumed by the State to ensure Rule of Law. It was held that the Court was entitled to even grant interim compensation, without prejudice to the rights of the family members to institute other proceedings for claiming monetary compensation. In that light, the victims in that case were granted monetary compensation of Rs.10,00,000/-.

32. On the aspect of custodial death and monetary compensation payable to the dependents of the victim, reference was made to a judgment of a Division Bench of this Court in the case of *Rekha Janardan Kale vs. State of Maharashtra & Ors.*, **2012 SCC OnLine Bom 2301**. In the said case, this Court found that there was violation of Article 21 of the Constitution of India and thereupon, directed the respondent-State to pay compensation of Rs.4,50,000/- with 8% interest per annum from the date of the death of the victim till the date of deposit of the amount in the Court. In the case of *Vishnu & Ors. vs. State of Maharashtra & Anr.* (supra), a Division Bench of this Court considered the question of payment of monetary compensation in the backdrop of death of an under-trial prisoner in custody, after taking into consideration the material on record. This Court found that although the said case was not a typical case of death due to custodial violence or torture, the victim being an under-trial prisoner died due to lack of timely medical assistance and treatment, for which the respondent-State was held liable. In the

said judgment, this Court observed as follows :

“10. In Suba Singh v. State of Haryana (2006) 3 SCC 178, the Apex Court has observed thus:

“38. It is well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in the enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of the Code of Criminal Procedure.”

11. In Sujata Mukunda Manerao v. State of Maharashtra [2004 ACJ 11023], the Division Bench of this Court has observed that:

“7. It is bounden duty of the State to look after health of the inmates in the jails since they cannot take treatment on their own and for the purpose of treatment, they are at the mercy of the hospital authorities. Proper medical aid to the inmates is a right available to them under Article 21 of the Constitution. The Apex Court in P.B. Khet Mazdoor Samity's case (supra) has laid down that Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance and failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21. It is also laid down by the Supreme Court in the said judgment that it is well settled that adequate compensation can be awarded by the Court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution.”

12. Having gone through the records, in our considered view, there has been total negligence and lapse on the part of the jail authorities in providing adequate, effective and proper medical treatment and on the part of the police guard on duty

who declined to shift the deceased Pratap Kute to Government Medical College, Aurangabad which has resulted in his death.

13. The deceased was a young man of 32 years of age, with his wife, children and parents dependent on him. The deceased was not a hardened criminal involved in some grave or serious crime. He lost his life only due to the failure of the jail authority to provide medical treatment. It need not be emphasised that the right to health enshrined in Art. 21 of the Constitution of India particularly of a prisoner who is deprived of his personal liberty, albeit in accordance with the procedure established by law, cannot be ignored. In fact the Hon'ble Supreme Court has in several decisions held that the right to life includes right to live with human dignity. Hence the duty of the State to provide medical treatment to the prisoners, to take care and ensure their safety and security of the prisoners and treat them with human dignity needs no affirmation. The Government having failed in its duty, the petitioners being the parents, widow and the children of the deceased, are entitled for compensation.

14. As regards the quantum of compensation, the deceased was 32 years of age. His parents, wife and two minor children were dependent on him. The parents, widow and the children of the deceased have also been deprived of love and affection of their loved one due to his untimely death caused due to negligence of the jail authority and the police guard. In such circumstances, though we cannot compensate human life in true sense, we are inclined to award compensation of Rs. 10,00,000/- (Rupees ten lakhs) to the petitioners.

15. In the result, the respondent No. 1 State of Maharashtra is directed to pay compensation of Rs. 10,00,000/- (Rupees ten lakhs) to the petitioners. The compensation shall be paid within four weeks from today failing which the amount will carry interest @ 6% p.a. from the date of the order till the date of payment. The State is at liberty to recover the same from the concerned officers who are negligent in providing medical aid to the undertrial prisoner. Rule made absolute in above terms.”

33. A reference was also made to judgments arising from orders

passed under the Consumer Protection Act in the context of medical negligence for determination of monetary compensation. But, the present case really concerns the failure on the part of the respondent-State to perform its duty to take care of the patients like the deceased husband of petitioner No.1, who were admitted to the said Government facility-Yerwada Mental Hospital for treatment. Instead of ensuring that such patients were given due care and treatment, so that their ailments could be cured, the failure on the part of the respondent-State resulted in the violent death of the husband of petitioner No.1, as also another victim. In such a situation, we find that while the aforementioned judgments have granted monetary compensation to victims of custodial death and also a case where lack of proper treatment to an under-trial prisoner resulted in his death, a specific framework or formula for determination of compensation is not discernible. As a matter of fact, we find that there is no statutory framework for determining compensation in such matters.

34. In this backdrop, we are of the opinion that nothing prevents this Court while exercising jurisdiction under Article 226 of the Constitution of India, as a public law remedy invoked by the petitioners, to refer to and consider the principles evolved from time to time for determining monetary compensation in cases of motor accident claims. After all, such monetary claims are also determined in situations like the present one pertaining to sudden loss of life of an earning member of the family due to

unforeseen and violent circumstances. The life of the victim is snuffed out, as a sudden shock to the dependents like the petitioners herein, leaving them fending for themselves while facing the vagaries of grave financial and emotional deprivation. The quantum of compensation to be paid to sufferers like the petitioners herein ought to be based on a logical process, such as the one recognized by Courts while determining monetary compensation in cases concerning motor accident claims.

35. The learned *amicus curiae*, with the assistance of the learned counsel for the petitioners, referred to the factors taken into consideration by the Supreme Court in such matters. Specific reference was made to judgments of the Supreme Court in the cases of *Sarla Verma (Smt) & Anr. vs. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121, *National Insurance Company Limited vs. Pranay Sethi & Ors.*, (2017) 16 SCC 680, *Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors.*, (2018) 18 SCC 130, *United India Insurance Company Limited vs. Satinder Kaur alias Satwinder Kaur & Ors.*, (2021) 11 SCC 780, *Harpreet Kaur & Ors. vs. Mohinder Yadav & Ors.*, 2022 SCC OnLine SC 1723 and *V. Pathmavathi & Ors. vs. Bharthi Axa General Insurance Co. Ltd. & Anr.*, 2026 SCC OnLine SC 158.

36. We find that the learned *amicus curiae* correctly pointed out that the heads under which the monetary compensation is determined, as per the law laid down by the Supreme Court in the

aforementioned judgments, does provide a logical and reliable basis for determination of monetary compensation, even for the petitioners herein, in the absence of any statutory framework or precedent presently available for determining monetary compensation in such situations. This is not a case of custodial torture and death. It is also not a case of victims invoking the criminal process for determination of monetary compensation. It is an admitted position that the accused Deepak Suravase, for the present, is not being proceeded against for the reason that the proceedings have been kept in abeyance, as he is undergoing treatment for mental illness. In such a situation, where the husband of petitioner No.1 died due to a violent attack at the hands of another patient of mental illness, in a mental hospital run by the Government, the method for determination of quantum of compensation cannot be traced to any readily available framework or formula. In that light, this Court is in agreement with the learned *amicus curiae* that the manner of determination of quantum of compensation under various heads, as laid down by the Supreme Court in the aforementioned judgments in the context of claims arising out of motor accidents, can be looked at and made the basis for awarding specific monetary compensation to the petitioners herein.

37. We find that the learned *amicus curiae* carried out an exercise to assist this Court by preparing charts for ascertaining quantum of compensation payable to the petitioners, by taking

into consideration alternative scenarios. These alternative scenarios are based on the age of the victim at the time of his death and the aspect of future prospects, apart from other standard factors such as loss of estate, spousal consortium, parental consortium, etc.

38. Although, in the writ petition, the petitioners have claimed that the victim i.e. the deceased husband of petitioner No.1 was aged 50 years at the time of death, copy of the passport of the victim placed on record shows his date of birth as 22.12.1961. The victim died a violent death in the aforesaid incident on 20.11.2013, thereby showing that he was about 52 years of age. Thus, he was clearly above 50 years of age at the time of his death. Although, the respondent-State has contended that since the victim was suffering from mental illness, he was not in a position to earn and therefore, monetary compensation is not payable, we find that the petitioners have supported their assertion that the victim was a real estate agent and that he was earning his own income, by placing on record copies of his income tax returns. The learned *amicus curiae* has correctly calculated the average annual income of the deceased i.e. the husband of petitioner No.1 as Rs.1,90,095. This is based on the income of the victim as reflected in the income tax returns for the years prior to the death of the victim. Thereupon, the learned *amicus curiae* has applied the multiplicand and multiplier as per the law laid down by the Supreme Court in the aforementioned judgments and after adding

amounts under various heads, including 15% additional amount as per judgment of the Supreme Court in the case of *United India Insurance Company Limited vs. Satinder Kaur alias Satwinder Kaur & Ors.* (supra), he has suggested the amount of monetary compensation to be paid to the petitioners at Rs.16,98,433/-. In the said suggestion, learned *amicus curiae* has also included future prospects, as per the law laid down by the Supreme Court, at 10%, since the victim in the present case was more than 50 years of age. The other scenarios placed before this Court by the learned *amicus curiae* are calculated by treating the victim as being 50 years of age at the time of his death and also by including/excluding future prospects.

39. We have already noted hereinabove that the victim at the time of his death was above 50 years old, as his date of birth was shown to be 22.12.1961, as per his passport. We are inclined to grant future prospects in the present case, as there is nothing to indicate that the victim would not have been able to carry out his work of being a real estate agent, for which he was indeed operating an establishment, which was registered under Shops and Establishment Act. The aspect of loss of dependency and spousal consortium as well as parental consortium also needs to be taken into consideration. Hence, we are inclined to accept the following basis suggested by the learned *amicus curiae* for determining monetary compensation payable to the petitioners :

Compensation Payable including future prospects and

considering the age of the husband of the petitioner No.1 as 52 years.

Sr. No.	Particulars	Calculation	Addition of 15% as per the Judgment of the Supreme Court (United India Assurance v. Stainder Kaur)
I.	INCOME	Rs.1,90,095 (Net of ITR of husband of Petitioner No.1 for the years 2013-14 i.e. Rs.1,92,490/- (Pg. 143 of Writ Petition) and 2012-13 i.e. Rs.1,97,700/- (Pg. 149 of Writ Petition))	
II.	DEDUCTION TOWARDS PERSONAL EXPENSES (1/3 rd Deduction in Present Case)	Rs.63,365/- (33.33 percent)	
III.	FUTURE PROSPECTS	10% (Age of Husband of Petitioner No.1 was 52 years)	
IV.	MULTIPLICAND	Rs.1,39,403/- (Rs.1,90,095- Rs. 63,365 + 10%)	
V.	MULTIPLIER	11 (As Husband of Petitioner No.1 was of 52 years age)	
VI.	LOSS OF DEPENDENCY	Rs.15,33,433/- (Rs.1,39,403 x 11)	Rs.15,33,433/- (Rs.1,39,403 x 11)
VII.	FUNERAL EXPENSES	Rs. 15,000/-	Rs. 16,500/-
VIII.	LOSS OF ESTATE	Rs. 15,000/-	Rs. 16,500/-

IX.	LOSS OF SPOUSAL CONSORTIUM	Rs. 40,000/-	Rs. 44,000/-
X.	LOSS OF PARENTAL CONSORTIUM TO EACH OF 2 CHILDREN	Rs. 80,000/-	Rs. 88,000/-
XI.	TOTAL COMPENSATION	Rs. 16,83,433/-	Rs. 16,98,433/-

40. We find that the petitioner No.1 i.e. widow of the deceased victim is further found to be facing a peculiar adversity in the form of petitioner No.3, who is the son, himself suffering from 90% mental retardation. As noted hereinabove, the petitioner No.3 is duly certified to be suffering from 90% severe mental retardation and being unable to earn independently. It is further certified that his condition is permanent, non-progressive and unlikely to improve. The certificate is at Exhibit 'H', which is not denied by the respondents as it is issued by a Committee of Government Doctors. The petitioner No.1 would be required to take care of the petitioner No.3 throughout her life, as there is no possibility of petitioner No.3 being able to lead a normal life, much less being able to earn and to assist the petitioner No.1. Therefore, we are inclined to grant further amount towards monetary compensation, beyond the amount suggested by the learned *amicus curiae* in the above quoted table, in the light of the difficult situation being faced by the petitioner No.1 in the facts and circumstances of the present case. We quantify the said amount at Rs.5,00,000/-. We have already found that the State is liable to compensate and retribute the petitioners as it failed in performing its duty to take

care, which resulted in the ghastly incident, leading to the untimely and violent death of the husband of petitioner No.1, who was the only breadwinner of the entire family. We find that the amount suggested by the learned *amicus curiae* of Rs.16,98,433/- deserves to be rounded off to Rs.17,00,000/- and a further amount of Rs.5,00,000/- ought to be paid for the needs of petitioner No.3, who is suffering from 90% mental retardation/incapacity. The total amount comes to Rs.22,00,000/-

41. We are of the opinion that the amounts of Rs.2,00,000/- and Rs.5,00,000/- specified in Notification dated 11.04.2014 (framed under Section 357A of the Cr.P.C.) and Government Resolution Dated 25.04.2025 (concerning custodial deaths) respectively are woefully inadequate. In any case, the facts of the present case are distinct as the husband of petitioner No.1 died a violent death in the said Government run mental hospital, due to failure of the respondent-State in performing its duty to take care.

42. In view of the above, the writ petition is allowed.

43. The respondent-State shall pay the sum of Rs.22,00,000/- (Rupees Twenty Two Lakhs) to the petitioners towards monetary compensation, for the loss of life of the husband of petitioner No.1, who was the father of petitioner Nos.2 and 3. The amount shall be paid to the petitioner No.1 within a period of eight weeks from the date of this order. The petitioner No.1 shall ensure that the said amount is properly utilized for herself and petitioner Nos.2 and 3. Since the petitioners were required to pursue this

writ petition for the past nine years in this Court, we are of the opinion that the initial amount of Rs.1,00,000/- already paid to the petitioner No.1 need not be adjusted. In other words, the aforesaid amount of Rs.22,00,000/- shall be payable in its entirety, in the aforesaid stipulated period of time. The amount shall carry interest @ 9% p.a., beyond the period of eight weeks as indicated hereinabove.

44. Rule is made absolute in above terms. Pending applications, if any, also stand disposed of. We place on record our appreciation of the efforts of Mr. Khandeparkar, learned *amicus curiae*, for providing valuable assistance to this Court.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)