

**AFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Judgment reserved on 23-3-2023****Judgment delivered on 28-04-2023****WA No. 409 of 2020**

1. State of Chhattisgarh through Principal Secretary, Department of Health and Family Welfare and Medical Education, Mahanandi Bhawan, Atal Nagar, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
 2. State of Chhattisgarh through Collector, District Bilaspur Chhattisgarh
 3. Additional Collector Pendra-Road, District Bilaspur Chhattisgarh.
 4. Chief Medical and Health Officer Bilaspur Office at Shree Vihar, Ashok Nagar, Sarkanda, Seepat Road, District Bilaspur Chhattisgarh.
 5. State of Chhattisgarh through Collector, Raipur District Raipur Chhattisgarh
 6. Chief Medical and Health Officer Raipur Office at Old Directorate, Near D. K. Hospital, District Raipur Chhattisgarh.
 7. Dean Chhattisgarh Institute of Medical Sciences Hospital, Sadar Bazar, Bilaspur District Bilaspur Chhattisgarh
 8. Dean Dr. Bhim Rao Ambedkar Memorial Hospital, Jail Road, Opposite Central Jail, Moudhapara, Raipur District Raipur Chhattisgarh
- Appellants**

Versus

Bhaiya Lal Gond S/o Shri Chaitu Gond Aged About 62 Years R/o Village Kanhari, Gorakhpur, Tehsil Pendra-Road, Police Station Gaurella, District Bilaspur Chhattisgarh

---- Respondent

**WA No. 126 of 2021**

1. State of Chhattisgarh through the Secretary, Department of Revenue and Disaster Management, Mantralaya Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.
2. Deputy Secretary, Department of Revenue and Disaster Management, Mantralaya Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.
3. The Collector Rajnandgaon, District Rajnandgaon, Chhattisgarh.
4. Chief Executive Officer Janpad Panchayat Dongargarh, District Rajnandgaon Chhattisgarh.
5. Sarpanch Village Panchayat Bakal, Tehsil Dongargaon, District Rajnangaon Chhattisgarh. --- **Appellants**

Versus

Lukesh Kumar Razak S/o Late Sukhit Ram Razak, Aged About 23 Years R/o Village And Village Panchayat Diwanbhedhi Tehsil Dongarhgaon, District Rajnandgaon Chhattisgarh. --- **Respondent**

WA No. 127 of 2021

1. State of Chhattisgarh through the Secretary, Department of Revenue and Disaster Management, Mantralaya Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh
2. Deputy Secretary, Department of Revenue and Disaster Management, Mantralaya Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.
3. The Collector Rajnandgaon, District Rajnandgaon, Chhattisgarh.
4. Chief Executive Officer Janpad Panchayat Dongargaon, District Rajanandgaon Chhattisgarh.
5. Sarpanch Village Panchayat Badhbhum, Tehsil Dongargaon, District Rajnangaon Chhattisgarh. --- **Appellants**

Versus



Smt. Jamuna Bai W/o Late Morajdhavaj Athanagriya, Aged About 32 Years R/o Village and Village Panchayat Badhbhum, Tehsil Dongarhgaon, District Rajnandgaon Chhattisgarh.

--- Respondent

WA No. 153 of 2021

1. State of Chhattisgarh Through The Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Atal Nagar, District - Raipur, Chhattisgarh.
2. Deputy Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Atal Nagar, District - Raipur, Chhattisgarh.
3. The Collector Rajnandgaon, District - Rajnandgaon, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat - Dongargaon, District - Rajnandgaon, Chhattisgarh.
5. Sarpanch, Village Panchayat, Bakal, Tehsil Dongargaon, District - Rajnandgaon, Chhattisgarh.

--- Appellants

Versus

Dhanraj Sahu, S/o Rajuram Sahu, Aged About 27 Years R/o Village And Village Panchayat - Bakal, Tehsil Dongargaon, District - Rajnandgaon, Chhattisgarh.

---- Respondent

For Appellants/ State :- Mr. Raghvendra Pradhan, Addl. A.G.
For Respondent in WA No.409/2020:- Mr. Achyut Tiwari, Advocate
For Respondents in WA Nos.126/2021, 127/2021 & 153/2021:- Mr. Shobhit Koshta, Advocate.

Hon'ble Shri Goutam Bhaduri
Hon'ble Shri N.K. Chandravanshi

C A V Judgment

The following judgment of the Court is delivered by **Goutam Bhaduri, J.**

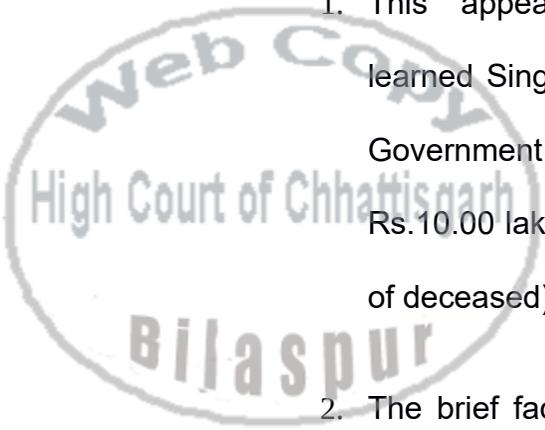


Dr. Pradeep Beck (M.D. Medicine), Professor Medicine, Medical Superintendent, Govt. Medical College Associate Hospital (Rajnandgaon) is present in the Court to place certain documents on record with respect to treatment of deceased.

- In these four appeals by the State, the challenge is to the compensation granted by the learned Single Bench for the death caused by rabies infection due to stray dog bites.

(i) WA No.409/2020

1. This appeal is against the order dated 18.6.2019 passed by learned Single Bench in WPC No.1178/2019 whereby the State Government was directed to pay compensation to the tune of Rs.10.00 lakhs (Rupees Ten Lakhs Only) to the petitioner (father of deceased).
2. The brief facts of this case are that on 07.10.2018 Gend Lal, (since deceased) son of Bhaiyalal suffered a stray dog bite, who was aged about 38 years. According to the respondent, father of deceased, after local treatment, the victim developed a symptom of hydrophobia on 4-5/11/2018. Thereafter, on 05.11.2018 deceased was taken to CIIMS hospital at Bilaspur from village. According to the respondent, deceased was not treated and was sent away to Dr. Bhim Rao Ambedkar Memorial Hospital, Raipur wherein he died on 06.11.2018.
3. According to the learned State Counsel appearing for appellant/State, the learned Single Bench has relied on the





judgment of this Court in **Shobha Ram Vs. State of Chhattisgarh** passed in WPC No.1856 of 2018 on 10.10.2018 along with other cases wherein a compensation of Rs. 10.00 lakhs was granted and further in a reference case viz **In Reference Court on its own motion (Regarding Death of Ku. Divya Verma, D/o Shri Ashok Verma due to Rabies) Vs. State of Chhattisgarh** passed in WPPIL No.24/2017 where also a death took place by dog bite, a compensation of Rs.10.00 Lakhs was granted. He would submit that facts of those cases would not be applicable to the present case as neither any pleading exists where dog bite took-place nor the Gram Panchayat was made a party which was a necessary ingredient as prescribed in case of **Shobha Ram (Supra)**. He would further submit that in order to ascertain quantum of damages, an enquiry would be necessary as per the law laid down by the Hon'ble Supreme Court in **Anupam Tripathi Vs. Union of India [(2016) 13 SCC 492]**. He would also submit that according to the respondent (father of deceased) himself, the deceased did not undergo the scheduled treatment of vaccines, which is required for dog bite and absconded from hospital, therefore, no treatment could be given.

4. *Per contra*, learned counsel for the respondent would submit that deceased belongs to a remote village at Gourella and despite his visit to health center, could not get the medical support for treatment. He would submit after the stray/ rabies dog bite, when he developed hydrophobia symptom, he was brought to CIIMS



Hospital at Bilaspur, which is a district headquarter wherein he was not allowed to be admitted and instead of admitting the deceased, he was referred to a long distant hospital of Raipur which is 120 K.Ms away from Bilaspur. He would submit that this act of Appellant/State would amount to negligence. Consequently, the compensation to that extent granted by the learned Single Bench is justified.

(ii) WA No.126/2021

5. This appeal is against the order dated 17.9.2020 passed by learned Single Bench in WPC No.1713/2019 whereby the State Government was directed to pay compensation to the tune of Rs.5.00 Lacs (Rupees Five Lacs Only) to the petitioner.

6. Brief facts of this case are that one Sukhit Ram Razak, aged about 52 years, was bitten by stray dog on 13.6.2018 while he was going for his job. He was admitted to the Government Medical Hospital, Rajnandgaon on 13.6.2018, but, was discharged on 18.6.2018. However, on 30.6.2018 he developed rabies infection and eventually succumbed to it on 30.6.2018. The learned Single Bench has granted a compensation of Rs.5.00 Lacs to the respondent Lukesh Kumar Razak, son of deceased.

(iii) WA No.127/2021

7. The present appeal is against the order dated 17.9.2020 passed by learned Single Bench in WPC No.1514/2019 whereby the



State Government was directed to pay compensation to the tune of Rs.7.5 Lacs (Rupees Seven Lakhs Fifty Thousands Only) to the petitioner.

8. Brief facts of this case are that one Morajdhavaj Athanagriya, aged about 36 years, husband of the respondent Jamuna Bai was admitted to hospital on 24.2.2018 with a history of stray/ rabies dog bite, before two months of his admission. Subsequently, he died on 25.2.2018 and respondent was granted compensation to the tune of Rs. 7.5 Lacs by the learned Single Bench for the reason that he was aged about 36 years and was working as a laborer.

(iv) WA No.153/2021

9. The present appeal is against the order dated 26.8.2020 passed by learned Single Bench in WPC No.2021/2019 whereby the State Government was directed to pay compensation to the tune of Rs.2.5 Lacs (Rupees Two Lacs Fifty Thousands Only) to the petitioner.
10. Brief facts of this case are that a child of two years was bitten by stray dog/rabid dog on 11.8.2018. He was admitted in hospital and was subsequently discharged. The child died on 01.9.2018. The Learned Single Bench has granted compensation to the tune of Rs.2.5 Lacs to the father of the child namely; Dhanraj Sahu (respondent herein).

Submission of learned State / Appellant counsel in WA

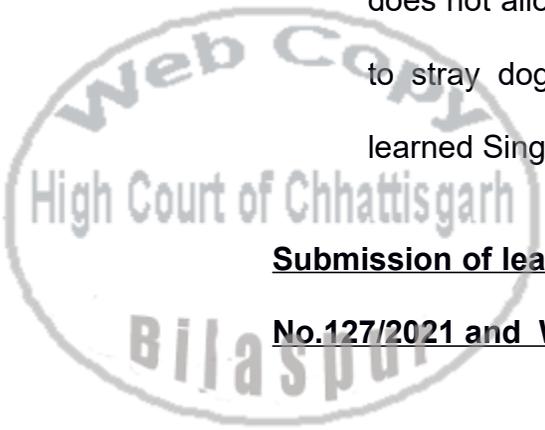


No.126/2021, WA No.127/2021 & WA No.153/2021

11. Learned State counsel would submit that in all these cases the deceased did not follow the schedule of vaccine and despite advice, they avoided to get the anti rabies vaccine. He would further submit that though the negligence has been attributed to the State, but, those facts findings are not on record apart from the fact that quantum of compensation is variable as such the judgment rendered in *Anupam Tripathi (Supra)* would govern the field. He would further submit that the revenue book circular also does not allow the State to grant compensation for the death due to stray dog/ rabid dog bite. Consequently, the order of the learned Single Bench is required to be set-aside.

Submission of learned respondent counsel in WA No.126/2021, WA No.127/2021 and WA No.153/2021

12. Mr. Koshta, learned counsel for respondents would submit that the State is under the strict liability to take care of the welfare of the citizens and if any attack is made by stray dog/ rabid dog, causing death, the State cannot avoid its liability. He would further submit that in the like nature cases of predatory wild animal attacks and consequent death, way back in 2018, the State has promulgated a policy that in case of death caused by predatory wild animal, a compensation of Rs.4.00 Lacs is being granted. He also submits that earlier in case of *Divya Verma (Supra)* specific directions were given by the learned Division Bench to the State. He submits that the said case *Divya Verma*





(*Supra*) also relates to dog bite, but the directions given in that case are not being followed and as a result, deaths of like nature have been caused. He further submits that even in case of **Anupam Tripathi** (*Supra*), Hon'ble Supreme Court has granted ex-gratia compensation and there is no reason as to why the compensation which was being granted by a direct circular of the State in the like nature of cases would not be granted as a ex-gratia to the respondents. He would submit that because of the negligence on the part of the State, the compensation has been granted which is well merited and does not call for any interference.

13. We have heard learned counsel for the parties and have also perused the records.

14. It appears that the primary grievance of the Appellant-State is that without making assessment of loss of income, the blanket order for payment of compensation for death of dog bite may not be sustainable. The State case is that unless a fact finding inquiry is conducted, the Court cannot grant compensation, therefore, in the instant cases, the compensation should not have been granted in absence of fact finding. Reliance is placed in **Anupam Tripathi Versus Union of India (2016) 13 SCC 492** wherein the Supreme Court observed that on such fact being recorded, the Court subject to adjudication of responsibility of the State, would be in a position to think of granting of compensation or making certain arrangements. We find merit in submission of State that without the fact finding enquiry of loss caused, this



Court will not be in a position to deal with the compensation facet.

15. We intend to follow the said analogy of the Supreme Court that before passing the order of compensation, certain scale has to be applied to grant different compensation to different members of the Society, therefore, a blanket order of compensation cannot be sustained. It is obvious that in given cases, the compensation granted may be lesser or may be higher in some cases, which would certainly depend on amount of loss sustained by way of income as being computed in grant of compensation in Motor Vehicle accident cases. Those quantum of compensation would also depend upon the degree of negligence looking to the nature of each case. Therefore, following the analogy laid down by the Supreme Court in **(2016) 13 SCC 492**, the compensation would depend upon the fact finding issue. However, this would not be inclusive of the gratuitous compensation which is being granted by the State in the like nature of cases. A reference is made to the order issued by the state Government on 12th June 2015 whereby gratuitous compensation is provided in case of death occurred by predatory wild animals.

16. The Supreme Court in **Sanjay Phophaliya V. State of Rajasthan AIR 1998 Raj. 96**, relying on **L.K. Koolwal v. State of Rajasthan**, observed thus :

“It is primary, mandatory and obligatory duty (sic duty) of Municipality to keep city clean and to remove insanitation, nuisance etc. The Municipality cannot take plea whether funds or staff is available or not.”



It was further observed that -

9. It is a serious matter when the dogs and other animals suffering from rabies bite animals and persons. The duty becomes more onerous on the respondent with regard to the dogs and such animals. The staff cannot say that its duty is complete if action is taken only on complaints. They must not sit in the office but should continuously take round of the city. If any inaction is found on the part of the staff, the respondents are bound to take disciplinary action against such staff. If still any accident happens, then the injured person or relative of the deceased person would be competent to invoke the provisions of Section 188 of IPC against such a negligent staff. It is expected that the roads of Jodhpur be cleaned from these stray animals within a period of four months from today. The respondents would be free to get work through contractors.”

17. Further, this Court in **WPC No.1178/2019 (Bhaiyalal Gond v. State of Chhattisgarh)** decided on 18.06.2019 at paras 5 and 6

had referred to the dictum laid down by this Court in *Shobha Ram v. State of Chhattisgarh WPC No.1856 decided on 10.10.2018* and observed that if such dog bite death is caused in Gram Panchayats, then a statutory duty is cast upon the respective *Gram Panchayats*. The Court at para 5 and 6 has held as under :

“5. In *Shobha Ram (supra)*, this Court after placing reliance upon the decisions rendered in *Anupam Tripathi v. Union of India (2016) 13 SCC 492*, *Shakuntala v. Govt of NCT of Delhi, WPC No. 13771 of 2006 decided on 1.7.2009 (Delhi High Court)*; *Sanjay Phophaliya v. State of Rajasthan AIR 1998 Raj 96*, *L.K. Koolwal v. State of Rajasthan AIR 1988 Raj 2*, *Milkmen Colony Vikas Samiti v. State of Rajasthan AIR 2007 SC 1046*, *Col. Dharamvir Kataria v. Union of India AIR 1999 Delhi 291*, *D.K. Basu v. State of W.B. (1997) 1 SCC 416*, *Nilabati Behera (Smt.) Alias Lalita Behera (Through the Supreme Court Legal Aid Committee) v. State of Oriassa and others*



(1993) 2 SCC 746 and *In Reference court on its own motion (regarding Death of Ku. Divya Verma, D/o Shri Ashok Verma due to Rabies) v. State of Chhattisgarh WP PIL No.24 of 2017 (Chhattisgarh High Court)* as also by placing reliance upon the provisions of the Chhattisgarh Gram Panchayat (Sanitation, Conservancy and Prevention and Abatement of Nuisance) Rules, 1999 (henceforth 'the Rules, 1999') has held that if due to failure of the administration or the Gram Panchayat to control stray dogs and for that reason any member of the locality dies due to bite by rabid dog/stray dog the State Government would be liable to compensate the legal representatives of the deceased.

6. In Shobha Ram (supra) this court has held thus in paras 20, 23 & 24 :

20. The Rules, 1999 thus obligates the Gram Panchayat to detain an unclaimed dog and destroy the said dog after three clear days. The Gram Panchayat has failed to perform its duty under Rule 29 of the Rules, 1999, therefore, for failure of the Gram Panchayat to perform its statutory function, the said Gram Panchayat jointly with the state Government would be liable to compensate the petitioner.

21. xxx xxx xxx

22. xxx xxx xxx

23. In the matter of *In Reference Court on its own motion (Regarding death of Ku. Divya Verma, D/o Shri Ashok Verma due to Rabies) v. State of Chhattisgarh* by order dated 22.08.2017 this Court, while entertaining the suo motu PIL, has allowed compensation of Rs.10,00,000/- to the mother of the deceased who died on account of attack by street dog. Prayer for modification of the said order subsequently rejected by order dated 12.09.2017.

24. In view of the above, I deem it appropriate to award compensation to the tune of Rs.10,00,000/- in favour of the petitioner minus (-) the amount already paid by the Government to the Hospital where the deceased obtained treatment. Petitioner





would, thus, be entitled to a sum of Rs.8,50,000/- within a period of three months from the date of receipt of certified copy of this order.”

18. When the compensation is sought, it is necessary to follow the principle of “strict liability” or “no-fault liability”. The Supreme Court in ***Union of India Vs. Prabhakaran Vijaya Kumar (2008) 9 SCC 527*** has laid down the principle that exception to the doctrine of strict liability or no-fault liability for hazardous activities cannot be applied to a Welfare State and there has been a corresponding shift from positivism to sociological jurisprudence.

The Court at Para 24 held thus :



“24. The basis of the doctrine of strict liability is two-fold; (i) The people who engage in particularly hazardous activities should bear the burden of the risk of damage that their activities generate, and (ii) it operates as a loss distribution mechanism, the person who does such hazardous activity (usually a corporation) being in the best position to spread the loss via insurance and higher prices for its products (vide Torts by Michael Jones, 4th Edn. p. 267).

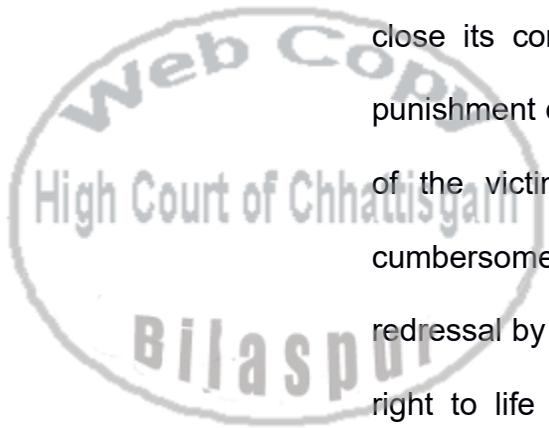
Further the Supreme Court has held that the doctrine of strict liability shall be applicable to the public corporation or local bodies which may be of the social utility, undertaking not working for private profit.

19. In ***D.K. Basu v. State of W.B. (1993) 2 SCC 746***, it has been laid down by the Supreme Court that grant of compensation in proceedings under Article 32 & 226 of the Constitution of India for established violation of fundamental rights guaranteed under



Article 21, is an exercise of the Courts under the public law jurisdiction for penalising the wrong doer 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. The old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much, as the protector and custodian of the indefeasible rights of the citizens. The courts have the obligation to satisfy the social aspirations of the citizens because the courts and law are for the people and expected to respond to their aspirations. A court of law cannot close its consciousness and aliveness to stark realities. Mere punishment of the offender cannot give much solace to the family of the victim-civil action for damages is a long drawn and cumbersome judicial process. Monetary compensation for redressal by the Court finding the infringement of the indefeasible right to life of the citizen is, therefore, a useful and at times perhaps the only effective remedy to apply balm to the wounds of the family members of the deceased victim, who may have been the bread winner of the family.”

20. The admitted fact is not disputed before us that the State of Chhattisgarh initially by circular dated 09.06.2015 issued through Revenue and Disaster Department has laid down the guidelines for grant of compensation/financial assistance to the nearest heir in cases of loss of life due to natural calamity. Subsequently by order dated 12th June, 2015 further guidelines was issued whereby the compensation/ financial assistance to be granted





has been increased for the loss of life, cripple or injury caused by attack of predatory wild animals. The language of said order is reproduced here-in-below :

छत्तीसगढ़ शासन
वन विभाग
मंत्रालय
महानदी भवन, नया रायपुर
// आदेश //

नया रायपुर, दिनांक 12 जून, 2015

क्रमांक एफ 7-32/2003/10-2 : राज्य शासन एतद्वारा इस विभाग के समसंख्यक आदेश दिनांक 25 जुलाई, 2014 को अधिकमित करते हुए, हिंसक वन्यप्राणियों यथा शेर, तेन्दुआ, भालू, लकडबग्घा, भेड़िया, जंगली सुअर, गौर, जंगली हाथी, जंगली कुत्ता, मगरमच्छ, घड़ियाल, वन भैंसा एवं सियार इत्यादि द्वारा पशुओं एवं मनुष्यों को क्षति पहुंचाये जाने पर दी जाने वाली क्षतिपूर्ति/ सहायता राशि में वृद्धि करते हुए निम्नानुसार नवीन क्षतिपूर्ति/ सहायता राशि निर्धारित करता है:-

क्रमांक	विवरण	क्षतिपूर्ति/सहायता राशि
1.	जनहानि (मृत्यु होने पर)	रु. 4,00,000/- (रुपये चार लाख)
2.	स्थायी रूप से अपंग होने पर	रु. 2,00,000/- (रुपये दो लाख)
3.	जनघायल होने पर	रु. 59,100/- (रुपये उन्सठ हजार, एक सौ) की अधिकतम सीमा तक
4.	पशु हानि होने पर	रु. 30,000/- (रुपये तीस हजार) की अधिकतम सीमा तक

2/- यह आदेश तत्काल प्रभाव से लागू होगा।

छत्तीसगढ़ के राज्यपाल के नाम से
तथा आदेशानुसार,

(अनिल कुमार साहू)
सचिव

छत्तीसगढ़ शासन, वन विभाग

21. Now the question whether the victim of death by dog bite can be given the said benefit of the order of the State Government dated



12th June 2015. In order to interpret the aim and object of the State, while issuing such order, it has to be interpreted in the light of principles of purposive interpretation. A plain reading of the order would show that the crux of matter speaks of compensation to the legal heirs of victims or the injured persons who are attacked by predatory wild animals. Similarly when the attacks are caused by wild dog/stray dog in a village or city, these stray dogs/wild dogs can also be termed as ferocious animals which can be made inclusive to grant compensation as per the order dated 12th June 2015. The Supreme Court in ***Tirath Singh Versus Bachittar AIR 1955 SC 830*** observed that where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon which which modifies the meaning of the words, and even the structure of the sentence.

22. Reading of the aforesaid order dated 12.06.2015 issued by the State Government would show that the State in its wisdom thought it proper to extend the helping hand to the people who lost their lives or limbs or sustained injuries due to attack made by the wild ferocious animals. When the attacks of stray dogs take place in the city or village not and at the forest, which results in death of people, the dog which attacks the human beings can be termed as a ferocious one as the animal instinct would be the same as that of animal of forest. Like wise in ***M.C. Mehta V.***



Union of India (1987) 1 SCC 395, Hon'ble Supreme Court while explaining the purposive interpretation of law for changing need has held that it is not necessary for us to consider these decisions laying down the parameters of this rule because in a modern industrial society with highly developed scientific knowledge and technology where hazardous or inherently dangerous industries are necessary to carry as part of the developmental programme, this rule evolved in 19th Century at a time when all these developments of science and technology had not taken place cannot afford any guidance in evolving any standard of liability consistent with the constitutional norms and the needs of the present day economy and social structure. We need not feel inhibited by this rule which was evolved in this context of a totally different kind of economy. Law has to grow in order to satisfy the needs of the fast changing society and keep abreast with the economic developments taking place in the country. As new situations arise the law has to be evolved in order to meet the challenge of such new situations. Law cannot afford to remain static. We have to evolve new principles and lay down new norms which would adequately deal with the new problems which arise in a highly industrialized economy.

23. Further in **New India Assurance Company Ltd. v. NUSLI**

Neville Wadia, the Supreme Court held thus -

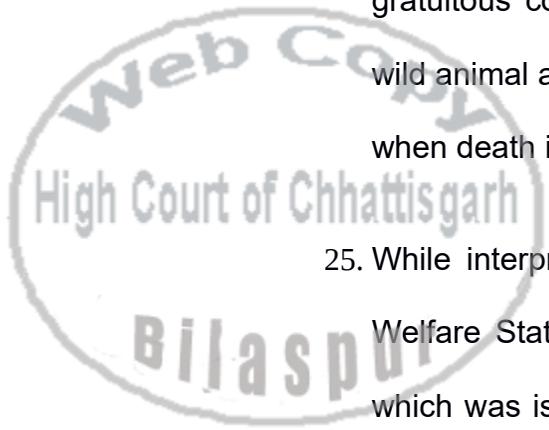
“51..... With a view to read the provisions of the Act in a proper and effective manner, we are of the opinion that literal interpretation, if given, may give rise to an anomaly or absurdity which must be avoided. So as to enable a superior court to



interpret a statute in a reasonable manner, the Court must place itself in the chair of a reasonable legislator/author. So done, the rules of purposive construction have to be resorted to which would require the construction of the Act in such a manner so as to see that the object of the Act is fulfilled, which in turn would lead the beneficiary under the statutory scheme to fulfill its constitutional obligations as held by the court inter-alia in Ashoka Marketing Ltd. (1990) 4 SCC 406.”

24. Applying the above proposition of law, we are of the opinion that when the death is caused by rabies infection of stray dog bites it would also come under the purview of “strict liability” or “no-fault liability” and interpreting the order of the State which grants gratuitous compensation for death, cripple and injury caused in wild animal attacks can be applied to the incidents of a stray dogs when death is caused by the bite of stray dog.

25. While interpreting the further quantum of compensation by the Welfare State, we deem it appropriate that the said notification which was issued in the year 2015 whereby an amount of Rs. 4 lakhs was fixed also needs to be revisited with the passage of time considering the inflation and growing market price index in the Society. Therefore, we direct the State to reconsider such Policy for enhancement of compensation which is granted by letter dt. 12.06.2015. The State may frame fresh policy taking into consideration the price index and other ancillary factors for enhancement of such gratuitous compensation. So far as the given case in hand, considering the facts and the time which has passed-by till date, we deem it proper to grant an exgratia payment of Rs.6,50,000 in each case to the dependent family members of victims who have died due to stray dog bites. We





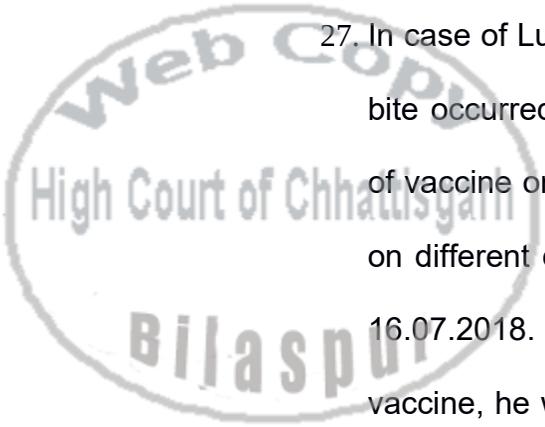
further observe that if the family of the victim is entitled to prove the claim for more amount, then in such a case, they have to resort to the fact finding enquiry by proper legal proceedings as laid down by Supreme Court in **(2016) 13 SCC 504**.

26. Now coming back to the other aspect of this issue, various documents were placed by the State for our perusal with respect to achievement to eradicate rabies. However, despite all efforts of State, the unknown fear or illiteracy or casual approach by the general public at large allowed it to turn it to be fatal.

27. In case of Lukesh Kumar Razak of W.A.No.126 of 2021, the dog bite occurred on 13.06.2018, he was administered the first dose of vaccine on 18.06.2018. Subsequently, he was asked to come on different dates i.e., 20.06.2018, 25.06.2018, 02.07.2018 and 16.07.2018. The document shows that after the first dose of vaccine, he was informed to again visit the hospital to administer further vaccines.

28. In case of respondent Jamuna Bai, wife of late Marojdhawaj of W.A.No.127 of 2021, deceased (Marojdhawaj) had a dog bite one year back. He visited the hospital on 22.04.2018 and did not take anti viral vaccine and first vaccine was said to have been taken after two days of the dog bite.

29. In case of respondent Dhanraj Sahu of W.A.153 of 2021, his son Yuvraj Sahu, aged about 2 years, was attacked by dog on 11.08.2018 and he was also advised to come as per schedule of vaccine on different dates i.e., 3rd, 7th, 14th and after 21 days, but

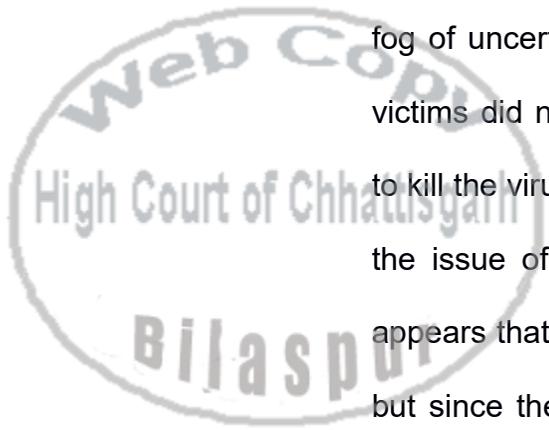




they did not follow. Eventually when symptoms came, the boy was admitted in hospital and later he died.

30. In case of respondent Bhaiyalal Gond of W.A. No.409 of 2020, after the dog bite in the month of October, 2018 no anti viral injection was administered. When the symptom came to be noticed, he rushed to the hospital in the month of November, 2018.

31. Therefore, the facts would show that in all the cases, the victims who are primarily from rural background after the stray dog bites, fog of uncertainty come to fore to get treated. In all cases, the victims did not abide by the vaccine schedule, which is required to kill the virus of rabies. This Court in WPIL No.24/2017 took up the issue of death by dog-bite in the State of Chhattisgarh. It appears that the State though has taken measures for treatment, but since the treatment requires a specific schedule of vaccine, the general public at large in urban as also in rural areas have not been made known of awareness of such menace that if the vaccine schedule is not followed, it may prove to be fatal. The facts would show that the people who suffer the dog bite due to lack of awareness have not adhered to the schedule of immediate antiviral injection which is required after the dog bite. Therefore, the State being a welfare State in order to curb such untimely death due to rabies is obliged to educate and alert the people about the consequences and affect when specific vaccine schedule is not administered. Therefore, we may observe that the State may make it known to public by putting hoardings and





posters in public places and by giving advertisements in print and electronic media to bring the lens back for the people to know the horror caused in case the vaccine schedule is not followed.

32. It is a turbulent alert to note the affairs of the awareness that despite the State has kept the vast machinery open for treatment, people do not adopt, therefore, the only way would be to educate the mass by different means and in different ways.

33. To conclude, we direct that (i) the *ex-gratia* payment to the respondents as per the notification from occurrence of stray dog bite death would be Rs.6,50,000/- and would be paid to the dependent of each victim family within a period of 45 days, failing which, it will carry interest @ 6% per annum; (ii) Apart from the aforesaid gratuitous payment, the family of the victim would be entitled to claim their right for further compensation, if so advised, which would be dependent on the fact finding enquiry of each individual case ; and (iii) the State would be obliged to give a wide publicity of anti-viral dog bite injection of treatment schedule by way of public posters and advertisements in print media and different means of communication through the health workers.

34. With the aforesaid observations, all the writ appeals are allowed to the above extent by modifying the order passed by the learned Single Judge.

Sd/-
(Goutam Bhaduri)
Judge

Sd/-
(N. K. Chandravanshi)
Judge



Head-notes

(i) When the death is caused by rabies infection of a stray dog bite, it would come under the purview of “strict liability” or “no-fault liability” of State and is to be included in the line of predatory-wild-animals’ attack to grant compensation as per the Policy of State.

(i) जब किसी व्यक्ति की मृत्यु आवारा कुत्ते के काटने के कारण रेबीज के संक्रमण के फलस्वरूप होती है तब यह राज्य के “कठोर दायित्व” अथवा “त्रुटि के बिना दायित्व” सिद्धांत के परिधि में आएगा एवं राज्य की नीति के अनुसार प्रतिकर प्रदान करने हेतु इसे शिकारी –वन्य–जीवों द्वारा किये गए हमले की परिधि में सम्मिलित किया जाना चाहिए।

(ii) The State is obliged to undertake a widespread campaign to educate and alert the people of the serious consequences of stray dog bites and strict immediate follow-up action of vaccine schedule of anti-rabies.

(ii) आवारा कुत्तों के काटने के गंभीर परिणामों के संबंध में लोगों को शिक्षित व जागरूक करने के लिए एक व्यापक प्रसार अभियान चलाने तथा एंटी–रेबीज टीकाकरण कार्यक्रम के संचालन के लिए तत्काल ठोस कदम उठाये जाने हेतु राज्य बाध्य है।

