

Supreme Court of India

Smt. Kewal Pati vs State Of U.P And Ors on 6 April, 1995

Bench: R.M. Sahai, S.B. Majmudar

CASE NO. :

Writ Petition (crl.) 1119 of 1991

PETITIONER:

SMT. KEWAL PATI

RESPONDENT:

STATE OF U.P AND ORS.

DATE OF JUDGMENT: 06/04/1995

BENCH:

R.M. SAHAI & S.B. MAJMUDAR

JUDGMENT :

JUDGMENT 1995 (3) SCR 207 The Order of the Court is as follows

1. This petition was entertained on a letter sent by the wife of the deceased Ramjit Upadhayaya who was killed by a co-accused while serving out his sentence under Section 302 IPC in Central Jail, Varanasi. The petitioner and her children have claimed compensation both in law and on compassionate grounds, Reports were obtained from the Inspector General of Prisons, U. P. and the Superintendent, Central Jail, Varanasi. They confirm that Ramjit Upadhayaya was killed by a co-accused. A counter-affidavit was also filed by Deputy Jailor, Central Jail, Varanasi, admitting that Ramjit Upadhayaya was killed by co-accused, Happu, against whom case under Section 303 has been registered. Affidavit was filed on behalf of the Government as well stating that there was no provisions in the U. P. Jail Manual for grant of compensation to the family of the deceased convict

2. Ramjit Upadhayaya was a convict and was working as a Nambardar in the jail. He was strict in maintaining discipline amongst the co-accused. It was due to this strictness in his behaviour as Nambardar that he was attacked and killed by Happu - a co-accused. Even though Ramjit Upadhayaya was a convict and was serving his sentence yet the authorities were not absolved of their responsibility to ensure his life and safety in the jail. A prisoner does not cease to have his constitutional right except to the extent he has been deprived of it in accordance with law (see Francis Coralie Mullin v. Administrator, Union Territory of Delhi and A. K. Roy v. Union of India). Therefore, he was entitled to protection. Since the killing took place when he was in jail, it resulted in deprivation of his life contrary to law. He is survived by his wife and three children. His untimely death has deprived the petitioner and her children of his company and affection. Since it has taken place while he was serving his sentence due to failure of the authorities to protect him, we are of opinion that they are entitled to be compensated³. In the result this petition is allowed by directing that the State of U. P. shall deposit a sum of Rs. 1, 00, 000 within three months from today, with the Registrar of this Court. A sum of Rs. 50, 000 out of this amount shall be deposited in fixed deposit in any nationalised bank and the interest of it shall be paid to the wife and the children. The remaining amount shall be paid to the wife by the Registrar after being satisfied about the

identification of the petitioner. The amount in deposit shall be paid to the wife on her option after all the children become major. In case of petitioner's death prior to the children becoming major, the amount shall be divided equally between the surviving children