

Chairman Railway Board VS.

Chandrima Das

MANU/SC/0046/2000





Mrs. Chandrima Das, a practising advocate of the Calcutta High Court, filed a petition under Article 226 of the Constitution against several employees of the Railways including the Chairman, Railway Board, claiming compensation for the victim, Smt. Hanuffa Khatoon, a Bangladeshi national who was gang-raped by many including employees of the Railways at Howrah Station of the Eastern Railway.

Mrs. Chandrima Das also claimed several other reliefs including a direction to the respondents to eradicate anti-social and criminal activities at Howrah Railway Station.

The High Court awarded a sum of Rs.10 lacs as compensation for Smt. Hanuffa Khatoon as it was of the opinion that the rape was committed at the building (Rail Yatri Niwas) belonging to the Railways and was perpetrated by the Railway employees.

The appellants appealed against this decision of the High Court.



COMPENSATION



The Right to Life guaranteed under Article 21 of the Constitution is available to citizens as well as non-citizens. The Court held that the State was under Constitutional liability to pay compensation to her, and as such, the previous judgment of the High Court allowing compensation is valid.

The Court found the Central Government vicariously liable for the offence of rape committed by the employees of the Railways. The Court said that in a welfare State, the functions of a Government are manifold – not only relating to defence and administration but also extending to spheres such as education, commercial, social, economic and even marital.

QUESTIONS OF LAW

Whether compensation can be claimed in a proceeding instituted under Article 226 of the Constitution of India?

Whether the Railways/Union of India is liable to pay compensation to the victim?



HELD

Upholding the validity of the claim of the victim for compensation, the Court held, "The contention that Smt. Hanuffa Khatoon should have approached the civil court for damages and the matter should not have been considered in a petition under Article 226 of the Constitution cannot be accepted. Where public functionaries are involved and the matter relates to the violation of Fundamental Rights or the enforcement of public duties, the remedy would still be available under the Public Law notwithstanding that a suit could be filed for damages under Private Law."

**PUBLIC
FUNCTIONARIES
PUBLIC LAW**

