

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**LPA No.1676 of 2015
Date of Decision: 26.11.2015**

Smt. PiariAppellant

Versus

State of Punjab & othersRespondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE JASPAL SINGH**

Present: Mr. S.L.Chander Shekhar, Advocate
for the appellant.

RAJIVE BHALLA, J (ORAL)

The appellant's prayer for grant of subsistence allowance for the death of her son, admittedly killed by terrorists on 16.02.1992, has been accepted but the appellant's grievance is that it should have been accepted from the date of death and not from the date of application i.e. 08.11.2011.

Counsel for the appellant urges that as the relevant policy came into force on 10.05.1990 and was amended in the year 1992, the monthly subsistence allowance should be granted from the date of death. The impugned order confining the claim to the date of application is erroneous as the policy does not confine subsistence allowance to the date of application and even otherwise the impugned order ignores the judgment in the case of a similarly situated person, whose monthly subsistence

allowance was allowed from the date of death.

We have heard counsel for the appellant, perused the impugned judgment but are not inclined to grant any relief to the appellant. The appellant's son Satwant Rai was unfortunately killed by terrorists on 16.02.1992. Admittedly, the application for subsistence allowance was filed by the husband of the appellant on 08.11.2011. The respondents have granted and paid subsistence allowance from 08.11.2011. The appellant's prayer for grant of subsistence allowance from the date of death has been considered and rejected after assigning detailed reasons. The judgment relied upon by the appellant, **1996 (2) SCT 260, Saroj Kundra Vs. State of Punjab & ors.**, in support of his plea, that subsistence allowance should be granted from the date of death, has been duly considered and distinguished by holding that in Saroj Kundra's case (supra), the application was filed immediately after the death in the year 1993 and the writ petition was filed in the year 1995. The appellant's son passed away in the year 1992 but the application for subsistence allowance was filed on 08.11.2011. The delay of 21 years in approaching the respondents in our considered opinion has been rightly construed as sufficient to disentitle the appellant to subsistence allowance, from the date of death. The appellant is, therefore, entitled to arrears of

subsistence allowance from the date of application i.e. 08.11.2011 (which have been paid) and the respondents shall continue to pay monthly subsistence allowance in accordance with the policy.

Dismissed.

[RAJIVE BHALLA]
JUDGE

26.11.2015
Vinay

[JASPAL SINGH]
JUDGE