

**207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**1. RSA No.266 of 2015 (O&M)
Date of Decision: August 12, 2015**

Jasbir Kaur Appellant

vs.

Seema and others Respondent

**2. RSA No.392 of 2015 (O&M)
Date of Decision: August 12, 2015**

Jasbir Kaur Appellant

vs.

Seema and others Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Deepak Thapar, Advocate for the appellant.

Mr. Sameer Sachdeva, Advocate
for respondent Nos.1 and 2.

Mr. T.N. Sarup, Addl. Advocate General, Punjab.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Kuldip Singh J.(Oral)

This order of mine will dispose of two regular second appeals bearing RSA Nos.266 and 392 of 2015, arising out of the same judgment.

Brief facts of the case are that Balbir Singh was a Constable in Punjab Police. He was married to one Surinder Kaur.

From the said marriage, two daughters, namely, Seema and Sunita (plaintiffs) were born. Surinder Kaur died and thereafter Balbir Singh re-married Jasbir Kaur -defendant No.1(appellant herein). Balbir Singh himself died on 13.11.1996 while in service.

Thereafter, the dispute arose between the widow of the deceased and the minor daughters of Balbir Singh from his first marriage. The minor daughters through their grandfather along with their grandfather filed a suit for permanent injunction restraining Jasbir Kaur-defendan No.1 from withdrawing any amount from saving account and RD account of Balbir Singh in Punjab National Bank and also restraining her from withdrawing the GPF and other service benefits attached to services of Late Balbir Singh. Mandatory injunction was also sought for directing defendant Nos.2 to 6 not to release any amount in favour of defendant No.1 Jasbir Kaur except to the extent of her share.

Learned Civil Judge (Jr. Divn.), Ludhiana, vide judgment and decree dated 27.09.2011 partly decreed the suit, whereby the widow was restrained from withdrawing any amount from the saving account and RD account standing in the name of Balbir Singh in Punjab National Bank, Salem Tabri, Ludhiana and also restraining her from withdrawing GPF and other service benefits (except pension) attached to the services of Late Balbir Singh. Mandatory injunction was also issued.

Dissatisfied with the judgment, both the parties filed cross appeals.

Learned Addl. District Judge, Ludhiana, vide judgment dated 30.09.2014 dismissed the appeal filed by Jasbir Kaur, widow. However, the appeal filed by the daughters was allowed to the extent that the department was restrained from releasing their joint $\frac{1}{2}$ share of the pensionary benefits and other service benefits attached to the services of Late Balbir Singh in favour of Jasbir Kaur. It was further held that Seema and Suman are entitled to $\frac{1}{2}$ share of the pension of the deceased Balbir Singh and Jasbir Kaur- wife was entitled to second $\frac{1}{2}$ share.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Before this Court, the short contention of learned counsel for the appellant is that under the family pension Rules, the unmarried daughters are entitled to family pension up to the certain age. Earlier, it was 21 years and now it has been amended.

Learned counsel for respondent Nos.1 and 2 contends that it has been extended up to 25 years in case of government pension as per Family Pension Scheme Rule 6.17.

Therefore, undoubtedly, the unmarried daughters are entitled to family pension up to certain age as per rules.

It is further pointed out by learned counsel for the respondent Nos.1 and 2 that the department has not released any pension or any dues to the minor daughters of the deceased.

In view of the matter, both the appeals are partly allowed to the extent that the minor daughters, namely, Seema and Suman

(now stated to have become major) are entitled to the pension and its arrears to the extent of ½ share up to the age as determined under Rule (*ibid*).

The concerned Department is accordingly directed to release ½ share of family pension to Seema and Suman up to said age along with interest, arrears and other service benefits as per the impugned judgment and decree maximum within three months.

For the future, the family pension to the widow shall be allowed in terms of Rule (*ibid*). Needless to say that the interest on the said amount of arrears shall also be paid @ 6% per annum in accordance with law. The amount shall be released.

Both the appeals are accordingly disposed of.

August 12, 2015
sarita

(KULDIP SINGH)
JUDGE