

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5431 of 2007(O&M)

Date of decision: 10.02.2016

Sukhbir Kaur

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Shailender Kashyap, Advocate, for the petitioner.

Mr. Ravi Dutt Sharma, DAG, Haryana.

Mr. Sandeep Suri, Advocate, for respondent No.3

RAJESH BINDAL, J.

The petitioner, who is widow of late Pardaman Singh, has filed the present petition impugning the communication dated 16.05.2006 (Annexure P-5), vide which the claim of the petitioner under the “Chaudhary Devi Lal Jan Suraksha Bima Yojna” (Devi Rakshak) Scheme, 2003-04 (for short “the Scheme”) as notified by Government of Haryana on 29.04.2004 has been rejected.

Learned counsel for the petitioner submitted that in a road accident, the husband of the petitioner, who was 26 years of age at that time, died on 27.09.2004. As per the Scheme notified by the Government of Haryana, the petitioner was entitled to ₹ 1 lac as compensation. The application for the purpose was filed and the same was forwarded by the competent authority in the State to the National Insurance Company Ltd. (for short “the Insurance Company”). However, the same has been rejected vide impugned communication dated 16.05.2006, stating the reason that the deceased-husband of the petitioner was not head of the family. While

referring to the terms of the Scheme, learned counsel submitted that Clause-B thereof defined insured beneficiary. The Scheme extended to all citizens of the Haryana in the age group of 18 to 80 years. All the bread earners of the families were covered excluding the Government employees and the income tax payees. The deceased after marriage with the petitioner was the bread earner for the family, hence, was entitled to get the compensation. Only in the clause providing for the amount of compensation, the word 'Head of the family' has been mentioned. Clause-I of the Scheme provided that in case the deceased was married, the compensation was to be paid to the widow, widower, dependent children, dependent parents, brothers and sisters or close relatives. It also provided for payment of compensation to the persons, who were entitled to that in case the deceased was not married. As the deceased-husband of the petitioner in the case in hand was the bread earner of the family, the rejection of the claim on the ground that he was not head of the family deserves to be set aside.

Learned counsel for the State submitted that after receipt of the application for compensation from the petitioner, the claim was examined and forwarded to the Insurance Company for payment, finding the petitioner to be eligible to get the benefit.

Learned counsel for the Insurance Company submitted that as in Clause F of the Scheme, the term 'Head of the family' has been mentioned and as per the ration card, the husband of the petitioner was not the head of the family, the claim was rightly rejected.

After hearing learned counsel for the parties, in my opinion the present petition deserves to be allowed. The relevant provisions of the Scheme are extracted below.

“B. Insured Beneficiary

Since risk recognizes no discrimination, it would be desirable to extend this Scheme to all citizens of Haryana who are in the age group of 18 to 80 years. It is proposed to confine this Scheme to all bread earners of all the families of Haryana, whose name appears in the voter list or ration card excluding Government employees and Income Tax Payees. In order to clarify the situation, it is further stated that if there are more than one bread earner in a family, in that case only one bread earner will be covered under the Scheme. Accident met to the beneficiaries even outside of Haryana is also covered under the Scheme.

F. Compensation

National Insurance Company will provide compensation to the dependents of the family as detailed below in case head of the family suffers death/permanent total disablement due to accidents as mentioned above.

Death	:	Rs. 1 lac.
Permanent Total Disablement	:	Rs. 1 lac.
Loss of two limbs, two eyes, one Limb and one eye	:	Rs. 50,000/-
Loss of one eye or one limb	:	Rs. 25,000/-

I. Payment of the compensation

In case of death, compensation would be paid to the nominee/legal heir on receipt of confirmation from the Sub Divisional Officer (Civil)/ Nodal Officer appointed by Government of Haryana along with following documents confirming the death/permanent Total Disability due to accident within seventy two hours. In order to clarify the status of nominee/legal heir, details are given below:-

- (a) If the deceased is married.

Compensation will be paid in the following order:-

- (i) Wife/Husband (in case wife is bread earner);
- (ii) Dependent children;
- (iii) Dependent parents;
- (iv) Brothers and sisters; or
- (v) Close relatives.

The point is further clarified that if wife has already died then compensation goes to dependent children. If dependent children are not there, then amount goes to dependent parents and so on.

(b) If the deceased is unmarried.

Compensation will be paid in the following order:-

- (i) Dependent parents;
- (ii) Brothers and sisters; or
- (iii) Close relatives.”

A perusal of the Scheme shows that all the bread earners in the families were insured. However, the claim was limited to only one bread earner in the family. In the case in hand the deceased was married to the petitioner. After marriage, he certainly became the bread earner for the family unit and was responsible for their needs.

Reliance on the ration card produced on record by the Insurance company along with the reply is totally misplaced for the reason that there is no date mentioned on the ration card on which it was issued. Further it does not contain the name of the petitioner as wife of deceased-Pardaman Singh. Apparently it was issued prior to the marriage of the deceased-Pardaman Singh with the petitioner. The contention sought to be raised was that the deceased-husband of the petitioner was not the head of the family, as father of deceased-Pardaman Singh was shown as head of the family. In any case the Scheme framed by the State of Haryana was a beneficial policy to which liberal construction is required. The benefit is to be given to the family in case the bread earner dies. In the case in hand, the husband of the petitioner died at a very young age of 26 years.

For the reasons mentioned above, the impugned communication dated 16.05.2006 (Annexure P-5) is set aside. The petitioner is held entitled to payment of compensation under the Scheme. The amount be paid within

a period of two months from the date of receipt of certified copy of this order. The petitioner shall also be entitled to interest @ 6 % per annum from the date of application till payment thereof.

The petition stands disposed of accordingly.

(RAJESH BINDAL)
JUDGE

10.02.2016

PA

(Refer to Reporter)