

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1647 of 2013**

- Ex.S.I.(GD) Yaduvir Singh Bisht (Y.S.Bisht) S/o Late Balwant Singh Bisht Aged About 63 Years No. 710240216, BN-55 CRPF R/o RZ C-2-134-D, Mahabir Enclave, Part-1 Street No.4, New Delhi-110045

---- Petitioner**Versus**

1. National Insurance Company Limited Through Divisional Manager, Divisional Office, 14 Sterling Cinema Building, 2nd Floor, 65 Murzban Street Mumbai - 400001
2. State Of Chhattisgarh Through Secretary, Home Department, Bilaspur, C.G.
3. The Director General Of Police, Police Headquarter, Raipur, C.G.
4. The Superintendent Of Police, South Buster, Dantewada, C.G.

---- Respondents

For Petitioner : Ms. Trishna Das, Advocate

For Respondent No.1 : Shri Dashrath Gupta, Advocate

For Respondents/State : Ms. Astha Shukla, PL

Hon'ble Shri Justice Goutam Bhaduri**Order****02/07/2021**

1. Heard.
2. The instant petition is for release of the amount of Rs.5 Lakhs against the insurance claim in lieu of the compensation to the petitioner on account of the fact that the petitioner while performing his duties in Bomb Detection & Disposal Squad suffered injuries because of land mine blast on 15.02.2007. Therefore,

as per the Memorandum of Understanding (MoU) of the State Government with the National Insurance Company Limited, the petitioner since has suffered the permanent disability to the extent of 45% of his leg resulting into complete inability to perform the vocation, was entitled to get the claim of Rs.5 Lakhs.

3. Learned counsel for the petitioner would submit that the petitioner was discharging his duties in the combing operation at forest and at that time of incident he stepped over a pressure bomb at Dantewada as a result he sustained grievous injuries on his right leg and elbow, and became unconscious. She would further submit that subsequently he was hospitalized and was treated at the end of recovery disability to the extent of 45% was assessed by the medical officers. She would further submit that since the job was hazardous as such the State Government to protect and encourage the employee in the like situation, entered into a Memorandum of Understanding (MoU) with the insurance company. The said MoU was effective in the State of Chhattisgarh for naxallite related violence and as per the policy in case of loss of limb, eye or ear he was to be given an assured sum of Rs.5 Lakhs in which the petitioner falls. It is stated that the Director General of Police and the authorities recommended for release of the said amount of Rs.5 Lakhs by repeated letters but eventually the said amount was not paid by the insurance company. The legal notice by the counsel was also sent but it was unresponded, therefore, eventually this petition has been filed. Reference is also made to the law laid down by the Supreme Court in the case of ***Chanappa Nagappa Muchalagoda V. Divisional Manager, New India Insurance Company Limited {AIR 2020 SC 166}*** to draw an analogy that the loss of body

part would have a nexus with the vocation and the loss of limb herein in this case has rendered the petitioner incapable to perform the same job in future uptill he retired besides the mental and physical agony. Therefore, the National Insurance Company be directed to release the amount of Rs.5 Lakhs as per the terms and conditions of the policy.

4. According to the State, the petitioner was an ex-service man before being superannuated and worked as Sub-Inspector in CRPF and while he was posted in District Dantewada, Camp Arampur which is a Naxallite area of district Dantewada. On 15.02.2007 a patrolling party proceeded for area domination and searching and when they were returning back to the camp Arampur, a pressure bomb exploded and the petitioner, who was working under the Bomb Disposal Squad, was injured and the pressure bomb was dug out after search and a report to this effect was registered as F.I.R. No.0/2007 dated 05.02.2007 at P.S. Camp Arampur District Dantewada. As per the State in order to boost the moral of the employees/officers deployed in naxallite area a policy decision was taken and therefore, a MoU was entered in between the State of Chhattisgarh and National Insurance Company and while the incident happened in view of the MoU which was in operation and clause 8 thereof purports that after submission of the relevant claim documents, the claim would be settled as early as possible within one month.
5. It is further submitted by the State that upon the injured petitioner making a claim before the State authorities, the letter was first sent to the Divisional Manager on 02.04.2011 along with all relevant documents i.e. the claim of the injured petitioner, copy of the F.I.R., copies of the medical certificates etc. but

nothing happened as such it was followed by another letter dated 24.06.20211 followed by letter dated 01.11.2011 and 08.02.2013 and lastly on 21.08.2013, however, the amount was not released for which the petitioner is entitled.

6. Learned counsel for the National Insurance Company would submit that the petitioner was not entitled for any relief to get a claim of Rs.5 Lakhs instead he was entitled for Rs.1 Lakh as according to the MoU the nature of injury which the petitioner had sustained would fall within the ambit of permanent loss/damage of part or body. Therefore, the petitioner is entitled to receive Rs. 1 Lakh. He would further submit that the medical certificate only says about 45% disability. Consequently, the claim of the petitioner to the extent of Rs.5 Lakh as has been recommended by the State Government cannot sustain.
7. I have heard learned counsel for the parties and perused the documents.
8. Admitted facts of this case are that the petitioner while performing his duty in the naxallite combating operation sustained injury by a pressure bomb. The petitioner was working in bomb disposal squad. By such injury he sustained 45% permanent disability. State Government in order to boost the moral of the employee who are engaged in the naxallite operation had entered into an MoU with National Insurance Company. The entire object to provide the protective umbrella to its employees so as to assure the financial support who takes up such hazardous and risky job. It is obvious that because of the people like petitioner are at field discharging their duty under such life threatening condition, the general people in urban area takes pleasant sleep including the officers of National Insurance Company. It is because of people like the

petitioner who are performing their duty the naxallite operations are fenced to particular area and not allowed to spread over State. The State Government therefore to encourage and boost the moral of its force had entered into an MoU with Insurance Company to strike a balance of human loss & bodily injury and to mitigate it by other way of support.

9. The MoU for the particular subject which is on record between the State Government and the National Insurance Company the relevant clause thereof is reproduced hereinunder:-

- “1- The insurance policy will cover the police personnel engaged in the Naxal affected area of the State of Chhattisgarh.
- 2- This policy will be effective any where in the State of Chhattisgarh for Naxal related violence.
- 4- All claim amount will be similar for all, irrespective of rank.
- 6- Benefits under the policy are as under:

1	Death	100% of Sum Insured	Rs. 10,00,000.00
2	Permanent Disability	100% of Sum Insured	Rs. 10,00,000.00
3	Loss of Two Limbs or Two Eyes or Two Ears.	100% of Sum Insured	Rs. 10,00,000.00
4	Loss of one Limb or one eye or one ear.	50% of Sum Insured	Rs. 5,00,000.00
5	Permanent Loss/damage of any part of the body.	10% of Sum Insured	Rs. 1,00,000.00
6	In case of hospitalization due to injury, Lump sum payment of Rs. 10,000/- per week subject to a maximum of Rs. 20,000/-		Rs. 20,000.00
7	Children Education Compensation on death of the police person.		Rs. 25,000.00

8- After submission of relevant claim documents as specified above, claim shall be settled as early as possible within one month.

10. The petitioner who now stands superannuated sustained permanent bodily injury. His medical certificate/disability certificate is reproduced hereunder:-

“DISABILITY CERTIFICATE

District Medical Board: Jagdalpur
Certificate No. 240, Date: 17/09/07

(Recent attested photograph showing the
disability affixed here)

CERTIFICATE FOR THE PERSONS WITH
DISABILITIES

This is to certify that Shri Y. S. Bisht, Son of Shri Balwant Singgh Bisht, Age: 56 years old male, Registration No. 55BN CRPF JD Cross Restriction of in case of Malunited Fracture Caladium (Rt). He is physically disabled and has 45% (Fourty Five percent) permanent (Physically impairment & in relation to his permanent disability.

Movement of RT & in RT LL

Note:

1. This condition Non-progressive not likely to improve.
2. Re-assessment is not recommended after a period of months/years

Sd/-
Dy. S.P. (HQ)
South Bastar Dantewada (C.G.)”

11. The return of the State shows that after the examination of the documents, the State recommended by its letters dated 02.04.2011, 24.06.2011 and 01.11.2011, 08.02.2013 & 21.08.2013 repeatedly asked the Divisional Manager, National Insurance Company to release the amount of Rs.5 Lakhs considering the nature of injury.

12. As has been laid down by the Supreme Court that the percentage of injury will have a bearing to the vocational disability if the nature of injury renders a

person 100% disable of his vocational capacity, then in such case it would be considered as a permanent disability. The Supreme Court in the case of ***Chanappa Nagappa Muchalagoda V. Divisional Manager, New India Insurance Company Limited {AIR 2020 SC 166}*** specifically laid down that when an injury rendered a person incapable to do a particular job considering the avocation, it would deemed to be 100% loss of earning capacity. In the instant case, since the petitioner was working as Sub-Inspector under the CRPF in Bomb Detection & Disposal Squad and after he sustained injury after the accident, the injury would not had allowed him to go for a combing operation which requires a particular type of specialized acts during duty. Therefore, unless and until the petitioner is fit to the extent of 100% he could not have discharged the nature of duty which the petitioner was performing. Consequently, the injury which caused disablement to the part of the right leg to the extent of 45%, and would render the petitioner not to perform his duty to the extent of aggression as was earlier one, it would be deemed to be considered to be loss of limb. The meaning of loss of limb cannot be given a narrow interpretation or a definition that computation only would be considered only for loss of limb. It is obvious that in the like nature of incident if a person is exposed to any bomb he would not embrace it get his bodily part amputated to come under definition of loss of limb to get a higher claim. Therefore, the incapacity to perform the vocation to the fullest by petitioner for cause of 45% permanent disability of leg would mean that permanent disability sustained in naxallite operation rendering one unfit to do same job would amount to loss of limb as per MoU. The benevolent object of MoU cannot be seen in narrow lence only to avoid liability by insurance company. The denial of the claim by

insurance company will defeat the trust in the system & will impress upon the people working in naxallite operation that sword is dangling over them without any sense of security.

13. Therefore, I am of considered opinion that as per the MoU the petitioner would be entitled to get a sum of Rs.5 Lakhs as insurance claim. The documents would show that despite the State persuaded the insurance company to release the amount to the tune of Rs.5 Lakhs considering the injury sustained by the petitioner and various letters having written, however, the insurance company remained dormant. There is no denial in the reply of the insurance company also that the letters written by the State were not received from 2011. Accordingly, it is directed that the insurance company shall pay an amount of Rs.5 Lakhs to the petitioner within a period of 45 days from the date of receipt of the copy of this order which shall carry an interest @ 6 % p.a. from January 2008.

14. Accordingly, the writ petition stands allowed.

Sd/-

Goutam Bhaduri
Judge

Ashu