

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

106

2023:PHHC:160505

RSA-1847-1995

Date of decision: 14.12.2023

STATE OF PUNJAB & ANR.

..Appellants

Versus

GURDIAL KAUR & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Arora, AAG, Punjab.

Mr. I.S. Brar, Advocate
for the respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The State of Punjab and its officials have challenged the correctness of the judgment and decree passed by the First Appellate Court while reversing the judgment and decree passed by the trial Court. The issue with regard to the entitlement of the parents to the amount of ex-gratia on death of Sh. Gurmukh Singh killed by terrorists on 23.10.1990, is in dispute.

2. On the one hand, the stand of the government is that ex-gratia grant is payable at the first instance to the widow of the deceased as per the instructions dated 22.01.1992. In fact, the entire amount has already been paid to the widow namely Smt. Paramjit Kaur, however, the suit was filed by Smt. Gurdial Kaur and Sh. Pritam Singh, parents of Sh. Gurmukh Singh claiming share from ex-gratia grant. The trial Court dismissed the suit, whereas, the First Appellate Court accepted the appeal resulting in reversal of judgment and decree passed by the trial Court.

3. Thus, the interpretation of instructions dated 22.01.1992, is the pivotal issue involved in the present case. Ex-gratia grant is provided under Clause I(A) of the instructions, which reads as under:-

“I(A) Ex-gratia grant.

Special Ex-Gratia grant of Rs.2,00,000/- (Rupees two lacs) only shall be disbursed to the next of kin of special Police Officers and Home Guards Volunteers who die during duty hours as a result of attack by terrorists or by a security forces during action against terrorists. It will be disbursed to the next of kin of Special Police Officers/Home Guard Volunteers in the following order or priority:-

i) Widow/widower.

ii) Sons and daughters dependent on the deceased, in equal shares.

iii) Grand sons and grand daughters, dependent on the deceased in equal shares;

iv) Mother.

v) Father;

vi) Dependent brothers and sisters in equal share;

The fact of sons and daughter, grand-sons and grand-daughters actually dependent on the deceased will be determined through an enquiry by the concerned Sub-Divisional Officer (Civil).”

4. On a careful reading of the aforesaid instructions, it is evident that the ex-gratia grant is to be disbursed to the next of kin of the special Police Officer or Home Guard Volunteer in the order as specified in the rule as mentioned above. The government in the instructions has used two expressions namely “in the following order” or “priority”. At serial No.1, the widow or widower is entitled to the ex-gratia grant to the exclusion of relatives of the deceased under Clause ii, iii, iv, v and vi. The First Appellate Court has interpreted the instructions in a manner that all these categories are equally entitled to the ex-gratia grant. In the considered opinion of the Court, the First Appellate Court has not interpreted the instructions in a correct manner. Moreover, it is not in dispute that the amount has already been paid to the widow namely Smt. Paramjit Kaur. The plaintiffs although not entitled to the amount claimed, were required to file a suit against Smt. Paramjit Kaur. The First Appellate Court should not have passed the decree

against the government. Moreover, the maintainability of the suit filed for a mere declaration is also debatable, however, on the very first issue, the judgment passed by the First Appellate Court is perverse and erroneous.

5. Hence, the same is set aside. The judgment and decree passed by the trial Court is restored.

6. Disposed of accordingly.

7. All the pending miscellaneous applications, if any, are also disposed of.

December 14th, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No