

2023:PHHC:163559

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

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**CWP-22320-2019 (O&M)
Date of Decision: 14.12.2023**

NASIB KAUR

... Petitioner

VERSUS

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. H. S. Sehgal, Advocate
for the petitioner.

Ms. Anita Balyan, Advocate
for respondent No.1.

Mr. Akshay Kumar Goel, Advocate
for respondent No.2.

Mr. K.B.S. Mann, Advocate for
Mr. P.P.S. Brar, Advocate
for respondents No.3 to 5.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present petition is for issuance of directions to the respondents to release the share of the petitioner-mother, out of the total amount of insurance money of the deceased son of the petitioner, to which she is entitled in law.

Learned counsel for the petitioner contends that son of the petitioner was a subscriber to the Army Group Insurance Fund and that he met with a roadside accident on 14.04.2009 and eventually passed away as a consequence thereof. The petitioner claims that being mother of deceased-

Gurtej Singh, who was deployed in Jammu & Kashmir Rifles, she is entitled to 25% of the insurance claim. However, the entire amount has been directed to be disbursed in favour of the private respondents.

Counsel for the contesting respondents, however, contends that there was a nomination in the Army Group Insurance Fund in favour of the private respondents and accordingly, they are entitled to the entire benefit thereof. It is further argued that the said nomination ought to be treated as akin a Will of the deceased and that the benefit could not have been distributed amongst the heirs of the deceased.

Counsel for respondent No.2 submits that 1/3rd of the amount has already been released in favour of the widow and the balance amount has been kept in a Fixed Deposit and the interest income accrued thereupon is being disbursed for the welfare of the minor children. He further submits that father of the deceased (husband of the petitioner herein) has already given up his claim on the said amount and has submitted that the same be kept in the Fixed Deposit in favour of the minor children.

Controverting the arguments advanced by the counsel for the contesting respondents, the counsel for petitioner has placed reliance on the judgment of a Division Bench of this Court in **CWP-20959 of 2013** titled as **'Smt. Surjit Kaur Versus Union of India and others'** decided on **10.07.2018**, which further placed reliance on the judgment of the Hon'ble Supreme Court passed in the matter of **'Smt. Sarbati Devi Vs. Usha Devi'** reported as **(1984) 1 SCC 424** wherein it was held that the nomination is only for the purposes of receiving benefits, and that the said benefit, however, have to be distributed in accordance with the applicable law of succession. Since the status of petitioner

as Class-I heir of deceased Gurtej Singh is not in dispute, she is entitled to 25% share of the Army Group Insurance Fund, i.e. the sum insured as undisputedly claimed by her.

Counsel for the contesting respondents has not been able to cite any law to the contrary.

Having heard learned counsel for the petitioner and taking into consideration the settled position of law as per the judgment of the Hon'ble Supreme Court in the matter of 'Smt. Sarbati Devi Vs. Usha Devi' (*supra*) subsequently reiterated in the judgment of 'Shipra Sen Gupta Vs. Mridul Sen Gupta and others' reported as (2009) 10 SCC 680 as well as followed by a Division Bench judgment of this Court in CWP-2095 of 2013 (supra), the instant petition is disposed of as per the settled legal position. The petitioner would be entitled to 25% of the sum insured as per the Army Group Insurance Fund as claimed by her while the private respondents would be entitled to release of the balance amount. The respondent No.2 may release the amount of Rs.3,75,000/- being 25% of the sum of Rs.15,00,000/-, as claimed by the petitioner, as the petitioner gives up her claim for interest that may have accrued on the said amount during the interregnum period and used for well-being of the children. The abovesaid amount be disbursed within a period of eight weeks of the receipt of certified copy of this order. The balance amount may be released in favour of the contesting respondents, except to the extent of the amount of Rs.10,00,000/- that has been kept in a Fixed Deposit. The interest income that would accrue on the said Fixed Deposit may be released for meeting out the expenses and for welfare of the minor children. Let the amount

of said Fixed Deposit be released equally in favour of the minor children, on their attaining the age of majority, without waiting for any further orders.

Petition stands disposed of accordingly.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

DECEMBER 14, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No