

COURT NO. 2, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 2224 of 2019 with MA 1043/2023

Smt. Mamta Wd/o Nk Late Vinod Kumar ... Applicant

Versus

Union of India & Ors. ... Respondents

For Applicant : Mr. Praveen, proxy for
Mr. Virender Singh Kadian, Advocate

For Respondents : Mr. Neeraj, Sr. CGSC

CORAM :

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER(J)

HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

1. The applicant vide the present O.A 2224/2019 has made the following prayers:-

"(a) Direct respondents to consider death of the husband of the applicant as attributable to military service and grant Special Family Pension to the applicant with effect from the date of death of her husband with interest @12% per annum. And/or

(b) Direct respondents to grant ex-gratia compensation with interest@12%. And/or

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances."

2. During the course of submissions made on 07.08.2023 on behalf of either side, it was brought forth that as submitted during the

hearing on 19.05.2023, by submission of the copy of the PPO no. 160201900798 dated 13.02.2020 on behalf of the respondents that the applicant herein Smt. Mamta, the wife of the deceased Lance Nk Vinod Kumar no. 02703799Y had been granted the Special Family Pension at the rate of Rs. 22770/- w.e.f. 09.12.2018 till remarriage or till the death, whichever was earlier.

3. On behalf of the applicant, it was thus submitted on 09.05.2013 that the prayer clause(b) made in the OA , be also thus granted whereby the applicant had sought directions to the respondents to grant ex-gratia compensation with interest @12% p.a.

4. During the course of submissions addressed on behalf of the applicant, it was submitted that the husband of the applicant who was enrolled in the Indian Army on 06.06.2006 and died on 08.12.2018 when he met with a fatal train accident at Kosli Railway Station near Rewari(Haryana) whilst he was enroute from Jalandhar Cantonment to Kosli Railway Station by Train no. 19614 Amritsar- Ajmer Express. A Court of Inquiry was constituted at Headquarter 88 Armd Brigade to investigate the circumstances in which No 2703799Y Late Lance Naik Vinod Kumar died in a train accident and it was declared that the death of the deceased soldier was **'not attributable to military service'**. The applicant was thus granted Ordinary Family pension

which was also enhanced w.e.f. 09.12.2018 apart from other dues i.e. death cum retirement gratuity, AGIF death benefits, AGIF maturity benefits, AFPP Fund, FSA and ACWF. The Grenadiers Records vide letter no. 2703799/SR/F-Pen dated 02.07.2019, observed that the death of the deceased should be declared as '**Attributable to military service**' in accordance with Paragraph 9(d) of the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008, and a fresh Court of Inquiry was held, and the competent authority declared the death of the deceased soldier to be '**Attributable to military service**'.

5. The letter received from the Grenadiers Records dated 02.07.2019 stated inter alia to the effect:-

"(e) As the indl was proceeding on lve from his duty Stn to his Lve Stn viz Jalandhar Cantt to Kosli Rly Stn(NRS), and met with fatal accident during journey from the duty Stn to home Stn. Cause of death of the indl should be declared as "Attributable to Mil Service" in terms of Para-9(d) and Note of Para-9(f) of Entitlement Rule for Casualty Pensionary award to Armed Forces Personnel-2008(Photocopy encl) as causal connection has been established to consider the death as attributable to Mil Service."

which thus indicates that the applicant's late husband was proceeding on leave from his duty Station namely Jalandhar Cantt to his Leave Station Kosli Railway Station when he met with the fatal accident

during the journey from the duty Station to home station and thus the death of the individual was declared as attributable to military service. The directions of the competent authority to similar effect dated 04.10.2019 were annexed as Annexure-R3 to the counter affidavit of the respondents. In these circumstances, it is essential to advert to letter no. 20(2)/2016/D(Pay/Services) dated 02.11.2016 which relates to Ex-Gratia lump sum compensation and recommendations of the Seventh Central Pay Commission, wherein it is stated inter alia to the effect that the existing rate of ex-gratia lump sum compensation to the next of kin of the deceased Defence Forces Personnel is revised as follows:-

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S.No.	Circumstances	Rates (in Rs.)
(a)	Death occurring due to accidents in course of performance of duties.	25 Lakhs
(b)	Death in the course of performance of duties attributed to acts of violence by terrorists, anti-social elements etc.	25 Lakhs
(c)	Death occurring in border skirmishes and action against militants, terrorists, extremists, sea pirates	35 Lakhs
(d)	Death occurring while on duty in the specified high altitude, inaccessible border posts, on account of natural disasters, extreme weather conditions.	35 Lakhs
(e)	Death occurring during enemy action in war or such war like engagements, which are specifically notified by Ministry of Defence and death occurring during evacuation of Indian Nationals from a war-torn zone in foreign country.	45 Lakhs

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6. In as much as the death of the deceased soldier i.e. the late husband of the applicant was opined by the Court of Inquiry dated 02.07.2019 to be attributable to military service with similar directions of the competent authority dated 04.10.2019, it is apparent that the death of the applicant's late husband has to be held to be wholly within the ambit of clause(a) of the circumstances mentioned in the letter no. 20(2)/2016/D(Pay/Services) dated 02.11.2016 as a death occurring due to an accident in the course of performance of duties. Thus the applicant is entitled to the grant of the Ex-gratia lump sum compensation being the next of the kin of the deceased Defence Force Personnel to the tune of Rs. 25 Lakhs. This is so, in so much as the letter dated no. 20(2)/2016/D(Pay/Services) dated 02.11.2016 takes effect from 01.01.2016 and the date of demise of the deceased soldier is 08.12.2018.

7. In view thereof, the OA is disposed of with directions to the respondents to make the payment of the Ex-gratia lump sum compensation to the applicant, the widow of the late deceased soldier to the tune of Rs. 25 Lakhs in terms of clause(a) of the table detailed in the said letter dated 02.11.2016 no. 20(2)/2016/D(Pay/Services) issued by the Ministry of Defence which shall be paid within a period of three months of the receipt of this order, failing which, the

respondents would be liable to pay 10% p.a. on the arrears till the date of payment.

Pronounced in the open Court on the 25 day of September, 2023.

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

[JUSTICE ANU MALHOTRA]
MEMBER (J)

/TS/