

**RESERVED**  
(Court No 2)

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**Original Application No. 863 of 2022  
with M.A. No. 1094 of 2022**

Friday, this the 03<sup>rd</sup> day of November, 2023

**"Hon'ble Mr. Justice Anil Kumar, Member (J)  
Hon'ble Maj Gen Sanjay Singh, Member (A)"**

Smt Hemlata widow of No. 3212418F late Sepoy Manoj Kumar, resident of village-Dangoi, PO-Sadar Garh Galyara, District-Mathura (UP)-281204.

.....Applicant

Ld. Counsel for the: **Shri Veer Raghav Chaubey**, Advocate  
Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India, South Block, New Delhi-110011.
2. Office of the PCDA (P), Draupadi Ghat, Allahabad.
3. Officer-in-Charge, Records, 8 JAT, PIN-911208, C/o 56 APO.
4. United India Insurance Company Ltd, D.O. No 11, 1<sup>st</sup> Floor, Maker Bhawan No 1, Sir Vithaldas Thakersay Marg, Mumbai-400020.
5. Chief Manager, State Bank of India, 3<sup>rd</sup> Floor, CPPC, Delhi-110066.

..... Respondents

Ld. Counsel for the: **Shri RC Shukla**, Advocate  
Respondents for respondent No 1 to 3  
**Mohd Zafar Khan**, Advocate  
for Respondent No 5.

**ORDER**

1. This instant Original application has been filed on behalf of the applicant under Section 14 of the Armed Forces Tribunal Act, 2007 by which he has sought the following reliefs:-

- (i) This Hon'ble Tribunal may kindly be pleased to direct the opposite parties to pay the personal accident insurance (PAI) of Rs 30 Lakhs as per new policy Rs 50 Lakhs according to Defence Service Package No 210383200968, SBI Jatari, Aligarh through United India Insurance Company Ltd.*
- (ii) Pass any other order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.*

2. Rejoinder affidavit filed on behalf of the applicant is taken on record.

3. M.A. No. 1094 of 2022 has been filed for condonation of delay in filing Original Application. As per office report, there is no delay in filing Original Application, therefore, delay condonation application is dismissed being not required.

4. Brief facts of the case are that No. 3212418F Sepoy (late) Manoj Kumar was enrolled in the Army on 13.06.2016. While posted with 8 JAT, he was granted 36 days Part of Annual Leave (PAL) for the period 10.03.2021 to 14.04.2021.

On 15.04.2021, while returning from leave, applicant's husband met with a road accident and he was admitted to Command Hospital (Central Command) Lucknow where he died on 18.04.2021 with diagnosis 'Severe Covid Pneumonia Sepsis, RTA with Polytrauma, Diffuse Axonal Injury, Subtrochanteric Fracture (Rt) Femur, Fracture (RT) Distal Radius, Multiple Facial Fracture'. Applicant being in receipt of Ordinary Family Pension (OFP) has filed this O.A. for grant of Personal Accident Insurance (PAI) of Rs 50 Lakhs as per new policy of Defence Service Package.

5. Learned counsel for the applicant submitted that husband of the applicant while travelling from Aligarh to Lucknow through Scooty Activa 6G UP 32 LS 0713 on 15.04.2021 met with an accident near Unnao and thereafter, he was admitted to Command Hospital, Lucknow where he died on 18.04.2021 during the course of treatment.

6. Learned counsel for the applicant further submitted that applicant's husband was having Defence Service Package No 210383200968 from SBI Jatari, Aligarh and he was insured for Rs 30 Lakhs through United India Insurance Company Ltd. It was further submitted that this amount has now been enhanced to Rs 50 Lakhs w.e.f. 01.04.2022. His other

submission is that insurance claim preferred by the applicant has been rejected vide order dated 17.11.2021 stating that 'Manoj Kumar died due to Severe Covid Pneumonia Sepsis, RTA with Polytrauma, Diffuse Axonal Injury, Subtrochanteric Fracture (Rt) Femur, Fracture (RT) Distal Radius, Multiple Facial Fracture', which being non accidental is not covered under the prevalent policy. He pleaded for grant of personal accident insurance to applicant as death in respect of her husband occurred due to accident while performing duty from home station to duty station.

7. On the other hand, learned counsel for the respondent No 1 to 3 submitted that applicant's husband met with an accident enroute on 15.04.2021 while travelling from home station to duty station and he died on 18.04.2021 while being treated in Command Hospital, Lucknow. It was further submitted that after death of the soldier, applicant was granted Ordinary Family Pension, however, since the deceased soldier was considered to be on temporary duty, case for grant of Special Family Pension has already been processed with PCDA (P), Prayagraj on 30.10.2022.

8. Learned counsel for the respondents further submitted that applicant's relief pertains to respondent No 4 and 5 i.e.

United India Insurance Company Ltd, Mumbai and State Bank of India, Jatari, Aligarh, therefore, respondent No 3 i.e. Officer-in-Charge, Records JAT Regiment having no connection with the present case, be excluded from memo of parties. He, however, submitted that as per communication dated 18.12.2021 it is learnt that claim of the applicant has not been sanctioned by United India Insurance Company Ltd. He pleaded for dismissal of O.A. on the ground that respondent No 1 to 3 has no nexus with this case.

9. Heard Shri Veer Raghav Chaubey, learned counsel for the applicant and Shri RC Shukla, learned counsel for the respondent No 1 to 3 and Mohd Zafar Khan, learned counsel for the respondent No 5.

10. Applicant's husband met with an accident on 15.04.2021 while proceeding to join duty. He was admitted in Command Hospital, Lucknow where he died on 18.04.2021 with diagnosis 'Severe Covid Pneumonia Sepsis, RTA with Polytrauma, Diffuse Axonal Injury, Subtrochanteric Fracture (Rt) Femur, Fracture (RT) Distal Radius, Multiple Facial Fracture'. Respondent No 1 to 3 while filing counter affidavit in para 2 conceded that death in respect of applicant's husband is attributable to military duty as per Para 9 (d) of

Entitlement Rules for Casualty Pensionary Award to Armed Forces Personnel-2008. Applicant is in receipt of Enhanced rate of Ordinary Family Pension vide PPO No. 164202100623 dated 11.08.2021 w.e.f. 19.04.2021. Her claim for grant of Special Family Pension has been adjudicated by Officer-in-Charge, Records and projected to PCDA (P), Prayagraj on 30.10.2022.

11. In this case applicant's claim is related to Personal Accidental Insurance (PAI) of Rs 50 lakhs which is applicable to personnel holding Defence Service Package through United India insurance Company. We agree with the submission of respondent No. 1 to 3 who have stated that subject matter is not related to them.

12. Respondent No 4 is the agency who has to provide relief in this regard. Notice was issued to respondent No 4 but no one being turned up on his behalf, order was passed on 06.02.2023 to proceed against respondent No. 4. Respondent No. 5 has pleaded for dismissal of O.A. stating that relief claimed does not fall within the purview of 'service matters' as defined in Section 3 (o) of AFT, Act, 2007. Respondent No 5 has also stated that they had enquired the status of PAI in DSP Account from the concerned branch of applicant's

husband. The concerned branch gave the reply and provided the documents as per which the claim was preferred but was returned stating that death was not due to accidental injury but due to severe Covid Pneumonia Sepsis.

13. We have perused Medical Certificate of cause of death [AFMSF-93 (Part-I)] issued by Command Hospital, Lucknow which reads as under:-

Cause of Death -Severe Covid Pneumonia  
 Disease or condition -Sepsis  
 Leading to death  
 (due to or as a  
 consequence of)

Antecedent causes -Road traffic accident with polytrauma  
 (due to or as a Diffuse Axonal Injury  
 Consequence of) Subtrochantric Fracture Right  
 Femur, Fracture Right Distal  
 Radius, Multiple Facial Fracture.

14. It is not disputed that applicant was admitted to Command Hospital, Lucknow post his road traffic accident on 15.04.2021 in which he suffered multiple injuries leading to his death on 18.04.2021. It is not graspable as to why medical authorities at Command Hospital, Lucknow declared his death due to Severe Covid

Pneumonia. In the medical certificate it has also been mentioned that in the tragic accident he suffered diffuse axonal injury and multiple fracture in the body including face. Diffuse axonal injury is the tearing of brain's long nerve which in this case was caused due to heavy impact during the accident.

15. It is pertinent to mention that our country faced peak second wave of Covid-19 during February to April 2021 and as per medical literature published post Covid-19, no one was spared from Corona Virus. The applicant may have been affected with Covid-19, but the fact is that he was admitted in Command Hospital, Lucknow after his accident and he succumbed to injuries while undergoing treatment on 18.04.2021. The two issues are thus, intrinsically interwoven.

16. In the above scenario, we are of the view that applicant's death was caused due to road traffic accident in which he sustained multiple fractures and diffuse axonal injury which led to his death. Applicant, who is wife of the deceased soldier, is entitled to receive PAI amount from United India Insurance Company Ltd.

17. In view of the above O.A. is **allowed** directing respondent No. 4 to consider grant of prevailing Personal Accident Insurance to the applicant within a period of three months on receipt of a certified copy of this order.

Default will invite interest @ 8% p.a.

18. No order as to costs.

19. Miscellaneous application(s), pending if any, stand disposed off.

20. Departmental Representative for the respondents orally submitted to grant leave to appeal against the above order, which we have considered and no point of law of general public importance being involved in this case, the plea is rejected.

**(Maj Gen Sanjay Singh)**  
**Member (A)**

Dated:03.11.2023

*rathore*

**(Justice Anil Kumar)**  
**Member (J)**

RESERVEDCourt No 2

Form No. 4

**{See rule 11(1)}**  
**ORDER SHEET**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW

O.A. No. 863 of 2022 with M.A. No 1094 of 2022

Smt Hemlata

Applicant

By Legal Practitioner for the Applicant

Versus

Union of India &amp; Ors

Respondents

By Legal Practitioner for Respondents

Notes of the Registry	Orders of the Tribunal
	<p data-bbox="505 1728 639 1757"><u>03.11.2023</u></p> <p data-bbox="505 1763 1110 1800"><u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u></p> <p data-bbox="505 1806 1110 1843"><u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p data-bbox="599 1900 873 1932">Judgment pronounced.</p> <p data-bbox="599 1954 984 1986">O. A. No. <b>863</b> of 2022 is allowed.</p> <p data-bbox="599 2007 1395 2040">For orders, see our judgment and order passed on separate sheets.</p> <p data-bbox="505 2150 873 2217">(Maj Gen Sanjay Singh) Member (A)</p> <p data-bbox="505 2217 574 2239"><i>rathore</i></p> <p data-bbox="1118 2150 1398 2217">(Justice Anil Kumr) Member (J)</p>