

Reserved Judgment**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW
(CIRCUIT BENCH, NAINITAL)****Original Application No. 168 of 2017****Wednesday this the 01st day of November, 2017****Hon'ble Mr. Justice S.V.S.Rathore, Member (J)
Hon'ble Lt Gen Gyan Bhushan, Member (A)**

Smt. Hema Devi mother of No. 4091623A Rifleman (Late)
Naveen Chandra Joshi, Village & Post Chepron, Tehsil Tharali,
District- Chamoli Garhwal, Uttarakhand, PIN-246481.

..... **Applicant**

By Legal Practitioner: Shri M.S. Chauhan, Advocate
Learned Counsel for the Applicant.

Versus

1. Union of India through its Secretary, Ministry of Defence New Delhi.
2. Additional Directorate General of Army Postal Services, Integrated HQ of MoD (Army) Delhi Cantt-10.
3. Controller of Defence Accounts (Army) Government of India, Ministry of Defence Belvedere Complex, Ayudh Path Meerut Cantt-250001.
4. Assistant Controller of Defence Account PAO (OR) Garhwal Rifles Lansdowne-246155.
5. The Officer-In Charge, Records the Garhwal Rifles Lansdowne Uttarakhand-246155.

.....**Respondents**

By Legal Practitioner: Shri Bhanu Pratap Singh,
Learned Standing Counsel for the Central
Government, assisted by Capt Priyank
Malviya, Departmental Representative.

ORDER**Per Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**

1. By means of the instant Original Application the applicant Smt. Hema Devi who is the mother of Rifleman (Late) Naveen Chandra Joshi has made the following prayers :-

“(a) To set aside the impugned rejection order dated 03.03.2016 passed by the respondent No. 2 in contravention of the PLI policy.

(b) To issue a direction to the respondents to provide the death benefits on PLI policy No. APS-1420418L dated 03 July 2013 for sum of Rs. 500000/- (Five lakh rupees) along with 10% interest.

(c) To issue, any other order or direction which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances the case.

(d) Award the cost throughout.”

2. In brief, the facts necessary for the purpose of instant original application are that the applicant's son was enrolled in the Indian Army (Garhwal Rifles) on 14.09.2010 and after completion of training, he was posted to 2 Garhwal Rifles on 05.04.2012. He was posted in Counter Insurgency Area in Operation RAKSHAK in Jammu and Kashmir. The applicant Smt. Hema Devi was nominated his Next-of-Kin for receiving benefits of his service. Rifleman (Late) Naveen Chandra Joshi died on 01.09.2013 due to vehicle accident while he was on 14 days casual leave with effect from 28.08.2013 to 10.09.2013. The accident took place while he was travelling in a civil transport. The service terminal benefits entitled to the applicant have already been paid. A Court of Inquiry was conducted by the Army authorities wherein it was declared that No. 4092623A Rifleman (Late) Naveen Chandra Joshi died in a road accident on 01.09.2013 while he was on leave and death was not attributable to Military Service. During service, Rifleman (Late) Naveen Chandra Joshi had acquired a PLI Policy (Santosh Endowment Assurance). Details of which are as under:-

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|-----|------------------------------|---|--------------------------------------|
| (a) | Policy No. | - | APS-1420418L |
| (b) | Date of commencement of risk | - | 21 June 2013 |
| (c) | Sum assured | - | Rs.5,00,000/-(Rupees five lacs only) |
| (d) | Date of maturity | - | May 2031 |
| (e) | Name of Nominee | - | Smt. Hema Devi (Mother) |

3. As per pleadings on record, premium of the policy was Rs. 2175/-p.m. The premium of the PLI was not deducted by the PAO(OR), Garhwal Rifles from his Individual Running Ledger Accounts(IRLA) resulting in financial loss to the Next-of-Kin of the deceased soldier to which she was entitled. It has been pleaded that the Transcription Sheet was communicated to the PAO (OR), Garhwal Rifles by Additional Directorate General of Army Postal Service (PLI Cell), Integrated HQ of MoD (Army) and PAO (OR) Garhwal Rifles was requested to correct the mistakes and PLI was requested to make payment of insurance.

4. Several correspondences were made between the PAO (OR), Garhwal Rifles and the ADG, APS which have been filed on behalf of the applicant to this Original Application. The grievance of the applicant is that the maturity value of the PLI entered into by the applicant during the life time has not been paid to her therefore she has claimed the same by means of this Original Application. In the counter affidavit, these facts are admitted. However, it has been pleaded that even the first premium could not be deducted, therefore, the policy lapsed due to which the benefit of the same could not be given to the applicant. It has also been pleaded in the counter affidavit that several efforts were made by the Respondents to revive the policy but in absence of the payment of the first premium the same could not be revived after the death of the applicant.

5. In Annexure No. 1, Respondent No. 2 has admitted that transcription sheet, which contained name of Rifleman (Late) Naveen Chandra Joshi, was e-mailed to PAO (OR) Garhwal Rifles on 13.07.2013, contained 124 entries out of which recovery of premium was made of 61 entries and for rest of 58 entries, deduction was not made. Thus, by no stretch of imagination it may be presumed that Rifleman (Late) Naveen Chandra Joshi was responsible for non-payment of first premium. Furthermore, during course of arguments, learned counsel for the respondents has clearly conceded that in this case the fault was on the part of the Respondents that though the premium for the policy was duly deducted, but by mistake the same was not credited in the account of the PLI. so it did not appear in the transcription sheet. Therefore, the Respondents have accepted that denial of payment of the benefits of the PLI Scheme to which the applicant is entitled after death of her son, was result of inaction on the part of the Respondents. Keeping in view the fair admission by the Respondents there is no room of doubt that the controversy of non-payment of death benefits of the PLI Scheme arose only because of negligence on the part of the Respondents and the applicant cannot be made to suffer on account of inaction of the

Respondents. In this case, it is nowhere under challenge that the Rifleman (Late) Naveen Chandra Joshi had acquired a PLI Policy for Rs.5,00000/- and the premium to be paid for the same was Rs. 2175/-per month. It further transpires from the correspondences made by the respondents with the PLI authorities that an effort was made to rectify the mistake and to ensure the payment of the insurance policy to the applicant but nothing fruitful could be done.

6. In this view of the matter, the O.A. deserves to be allowed.

7. Accordingly O.A. No. 168 of 2017 is **allowed**. Order dated 03.03.2016 is set aside and the respondents are directed to make payment of death benefit of PLI Policy No. APS-1420418L dated 21.06.2013 to the applicant within four months from the date of intimation of this order. Respondents are further directed to pay interest @ 9% per annum on the amount of death benefit of aforesaid Insurance Policy from 01.09.2013, the date when the payment of aforesaid Insurance Policy became due to the nominee, till the date of actual payment. Learned counsel for the respondents is directed to communicate this order to the authority concerned for ensuring immediate compliance.

7. No order as to costs.

(Lt Gen Gyan Bhushan)
Member (A)

(Justice S.V.S. Rathore)
Member (J)

Dated: November, 2017
RPM/-