

Smt Seema T Telgote vs Union Of India & Anr. on 9 April, 2025

Author: Navin Chawla

Bench: Navin Chawla

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 03.02.
Pronounced on: 09.04.2

+ W.P.(C) 13573/2022
SMT SEEMA T TELGOTE
Through:

.....Petitioner
Mr. Naushad Alam, Adv.

versus

UNION OF INDIA & ANR.
Through:

.....Responde
Mr. Jitesh Vikram Shrivast
SPC.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

JUDGMENT

SHALINDER KAUR, J.

1. The petitioner, who is presently serving as a Head Constable (Ministerial) in the Border Security Force („BSF), has approached this Court under Article 226 of the Constitution of India, seeking the following reliefs:-

"(I). Issue a Writ in the nature of Mandamus or other suitable writ or order or direction thereby commanding Respondents to treat the demise of Constable Tej Rao Telgote as accidental death and pay Double Accident Benefit to the petitioner under Group Insurance Scheme(Annexure P/1 as renewed from time to time);

(II). Issue a Writ in the nature of Mandamus or other suitable writ or order or direction thereby commanding Respondent No.1 to pay the remaining insured amount of Rs.5,00000/-

along with interest to the petitioner under Group Insurance Scheme (Annexure P/1as renewed from time to time)"

2. The facts relevant for the adjudication of the present petition are that the petitioner was appointed in the BSF on compassionate grounds, due to the unfortunate demise of her husband, Late Constable Tej Rao Telgote, who passed away due to a stray dog bite while serving with the 113th

Battalion („Bn ") of the BSF on 24.09.2009.

3. Due to the demise of her husband, the petitioner was paid a lump-sum compensation of Rs. 5,00,000/- under the Group Insurance Scheme (hereinafter referred to as, "Insurance Scheme") of the Life Insurance Corporation of India/respondent no.2.

4. Before we further discuss the facts of the case at hand, an overview of the Insurance Scheme would be necessary. In the year 2006, the respondent no.2 introduced the said Insurance Scheme for the benefit of the BSF personnel. Accordingly, an amount of Rs.1300/- per year is deducted from the salary of the BSF personnel by the respondent no.1, which is deposited with the respondent no.2. The deposited amount acts as a premium for the insurance, for the claims arising due to death, accident by outward violent and visible means, total and permanent disability, which can be claimed after the requisite forms and the relevant documents are filled out and sent by the respondent no.1 to the respondent no.2.

5. It is the case of the petitioner that on 23.08.2009, the petitioner's late husband was bitten by a stray dog while he was serving with the 113th Bn BSF in Cooch Behar, West Bengal. He was thereafter given treatment as per the advice of the Chief Medical Officer, and was referred to the MJN Hospital, Cooch Behar. He was further referred to the NBMC&H Siliguri, West Bengal, on 20.09.2009, where he remained till his demise. As per the medical certificate issued by the RMO, Department of Medicine, NBMC&H Siliguri, the cause of death of the petitioner's husband was "PARAPERESIS WITH AEROPHOBIA AND HYDROPHOBIA (RABIES)".

6. For this, on 09.09.2010, an amount of Rs. 5,00,000/- as lump- sum compensation was credited in the account of the petitioner.

7. Dissatisfied with the amount of compensation, the petitioner made a representation dated 07.02.2011 to the Commandant, 113th Bn BSF and sought the Director General's („DG ") interview.

8. In response thereto, the Commandant of the 113th Bn BSF, vide the Letter dated 10.02.2011, informed the respondent no.1 that previously, the complete documents of the petitioner's husband were forwarded to their Headquarters and the case was further forwarded to the respondent no.2 with regards to the claim of Rs.10,00,000/- of the petitioner, however, only Rs.5,00,000/- was released.

9. As the petitioner had represented that her claim was for Rs.10,00,000/-, therefore, the Commandant of the 113th Bn BSF requested the respondent no.1 to again take up the case with the respondent no.2 for reconsidering the release of the remaining amount of Rs.5,00,000/- to the petitioner, as the death of the petitioner's husband was accidental.

10. The respondent no.1, vide the letter dated 30.03.2011, informed the Commandant of the 113th Bn BSF that the claim documents of the petitioner's husband were forwarded to the respondent no.2 previously in 2009 itself, and the respondent no.2 had sought a clarification regarding the date on which the deceased was bitten by the stray dog, along with a copy of the FIR filed in this regard,

as also a final police investigation report, so that the „Double Accident Benefit“ could be released. However, since the Unit was unable to provide the final investigation report/FIR in the case, and were eventually only able to provide an extract of GD entry made in the Matigara Police Station, the respondent no.2 settled the claim of the petitioner at Rs. 5,00,000/- in the absence of Final Police Investigation Report. The respondent no.1 informed the Commandant of the 113th Bn BSF to approach the concerned Police authorities to forward the Final Police Investigation Report in the case so that the respondent no.2 can be approached to release the claim of the petitioner.

11. The Commandant of the 113th Bn BSF replied to the said letter of the respondent no.1 on 13.04.2011, stating that as per the statement of the In-charge of the Police Station, Matigara, in the absence of a Post Mortem Report, an FIR cannot be recorded and an investigation cannot be carried out, therefore, the required documents cannot be provided by the Police Station.

12. In return, the respondent no.1, vide the letter dated 09.01.2012, informed the Commandant, 113th Bn BSF, that the Unit has conveyed to the Headquarters that the cause of death of the petitioner's husband was „natural“ in nature.

13. In June, 2012, the petitioner filed an application under the Right to Information Act, 2005 seeking a copy of the Court of Inquiry („COI“)/Staff Court of Inquiry („SCOI“), the Post-Mortem Report, and the FIR.

14. In a reply to the said application, vide the letter dated 20.07.2012, a copy of the SCOI was provided. It was further stated in the said letter that as per the medical certificate issued by the Medical College & Hospital, Siliguri, West Bengal, the cause of death was "PARAPERESIS WITHAEROPHOBIA AND HYDROPHOBIA (RABIES)", however a Post-Mortem could not be conducted as the cause of death was established as „Rabies“. It was also stated that the 113th Bn BSF Unit had requested the SHO, Matigara, Siliguri to provide a copy of the FIR relating to the death of the petitioner's husband, however, the Officer-in-Charge has provided only an extract copy of the GD entry No.1297/09 dated 24.09.2009.

15. The petitioner, thereafter, approached the Competent Authority of the respondents, however, since that was of no avail, the petitioner has filed the present Writ Petition before this Court.

16. The learned counsel for the petitioner submitted that as the late husband of the petitioner was bitten by a stray dog while he was in service and on duty with the 113th Bn BSF, his death is not „natural“ but an „accidental death on duty“, for which the compensation would be Rs.10,00,000/-.

17. He submitted that the entire treatment of Late Constable Tej Rao Telgote was done under the control and supervision of the Medical Unit of the BSF, and no member of the family was with the deceased at the said point of time. The dead body of the Late Constable Tej Rao Telgote was also not sent to the native place, and that the family members participated only in the cremation arranged by the BSF at the Municipal Crematorium, Siliguri, West Bengal.

18. The learned counsel further submitted that lodging an FIR and getting the Post-Mortem conducted was not within the domain of the petitioner or her family members. He submitted that the said scheme of the respondent no.2 does not mandatorily require an FIR and/or Post-Mortem Report, as these are only directory and not mandatory. He submitted that a GD entry in regard to the accident was made. He further submitted that since the cause of death was known to the doctors, therefore, no Post-Mortem was mandated.

19. The learned counsel submitted that the FIR or a Post-Mortem Report is not the ultimate or an indispensable piece of evidence to establish unnatural death, when the cause of death is medically known, and an accidental death can be proved by other evidence which is on record.

20. Per contra, the learned counsel for the respondents submitted that as per the death certificate of Late Constable Tej Rao Telgote, the cause of death is mentioned as „natural and therefore, conducting a Post-Mortem was not required. In these circumstances, he submitted that the petitioner is not entitled to the „Double Accident Benefit , as the manner of death was due to a „natural cause.

21. Having considered the submissions made by the learned counsels for the parties and perused the record, the short issue that comes up for the consideration of this Court is, whether the death of the petitioner's late husband was „natural or „accidental and whether the petitioner would be entitled to the „Double Accident Benefit .

22. The learned counsel for the petitioner has vehemently submitted that the death of her husband was not „natural , but accidental, as he was bitten by a stray dog and had succumbed to „Rabies . On the other hand, the learned counsel for the respondents has pleaded that in the absence of a Post-Mortem Report, the death of the petitioner's husband cannot be said to be an „unnatural death , so as to entitle her to claim the „Double Accident Benefit .

23. To appreciate the submissions raised on behalf of the parties, it would be relevant to refer to the „Double Accident Benefit clause under the Insurance Scheme issued by respondent no.1, which reads as under:-

"3. DOUBLE ACCIDENT BENEFIT If death of a member occurs directly from injuries caused by an accident by outward violent and visible means solely, directly and independently of all other causes, then Corporation shall pay an additional Sum equal to the basic Sum Assured of Rs. 5,00,000/- per member. Accidental death will also include death while on duty in North Eastern States due to cerebral malaria within 48 hours of contracting the disease."

24. It is not disputed that the late husband of the petitioner was bitten by a stray dog while serving with the 113th Bn BSF on 23.08.2009. He was referred for treatment to MJN Hospital, Cooch Behar, and about a month later, he was further referred for treatment to NBMC&H, Siliguri, where he remained admitted from 20.09.2009 till his demise on 24.09.2009. The cause of his death was opined to be "PARAPERESIS WITH AEROPHOBIA AND HYDROPHOBIA (RABIES)".

25. The term „accident“ has been defined in the Black's Law Dictionary as under:-

"The word "accident" is derived from the Latin verb "accidere" signifying "fall upon, befall, happen, chance." In an etymological sense anything that happens may be said to be an accident and in this sense, the word has been defined as befalling a change; a happening; an incident; an occurrence or event. In its most commonly accepted meaning, or in its ordinary or popular sense, the word may be defined as meaning: a fortuitous circumstance, event, or happening; an event happening without any human agency, or if happening wholly or partly through human agency, an event which under the circumstances is unusual and unexpected by the person to whom it happens; an unusual, fortuitous, unexpected, unforeseen or unlooked for event, happening or occurrence; an unusual or unexpected result attending the operation or performance of a usual or necessary act or event; chance or contingency; fortune; mishap; some sudden and unexpected event taking place without expectation, upon the instant, rather than something which continues, progresses or develops; something happening by chance; something unforeseen, unexpected, unusual, extraordinary or phenomenal, taking place not according to the usual course of things or events, out of the range of ordinary calculations; that which exists or occurs abnormally, or an uncommon occurrence".

26. The plain meaning of the term „accident“ can be said to be an unexpected and unforeseen event that occurs, with or without human agency. The „Double Accident Benefit“, stated in the Insurance Scheme, also covers death caused directly from injury, which has been caused by an accident by outward violent and visible means solely, directly and independent of all other causes. Keeping this in mind, a dog bite, thus, can be said to be an outward violent and visible accident by which harm is brought about and, which resulted in death therefrom.

27. In *Ambalal Lallubhai Panchal v. L.I.C. of India*, 1999 SCC OnLine Guj 56, the Court considered whether death caused by a dog bite can be said to be death caused by an accident so as to make the Life Insurance Corporation liable to pay to the appellant/original plaintiff therein an additional sum equal to the sum assured under the accident benefit clause of the Policy, which entailed payment of an additional sum equal to the sum assured under the Policy, if the death was caused as a result of an accident as contemplated by that clause. The Court interpreted the term 'accident' in insurance policy and observed that for policy covering accidents by 'outward, violent and visible means', importing concepts of reasonable care from tort law is inappropriate. The Court further held that the only valid exceptions are those explicitly enumerated in the policy, and all events qualifying as accidents in the general sense are covered when caused by outward, violent and visible means, with this qualification existing merely to ensure the event is ascertainable. While allowing the appeal, the Court held as under:

"9. ... A dog bite is not brought about by any design or intention. It is an unexpected harm. A dog bite is surely something that is outward, violent and visible by which the harm is brought about and the death resulting therefrom would therefore in our opinion be a death resulting from an accident caused by outward, violent and visible

means within the meaning of the accident benefit clause of the policy under which the LIC was bound to pay an additional sum equal to the sum assured under the policy."

28. It is not the case of the respondents that the petitioner's late husband was negligent or careless and consequently, he suffered from the dog bite or that the death was not a direct result of the dog bite. The SCOI, which was ordered to inquire into the death of the petitioner's late husband, had concluded as under:-

"i. His death was due to "PARAPERESIS WITH AEROPHOBIA AND HYDROPHOBIA (RABIES) for which no one is to be blamed and his death is attributable to Govt Service. ii. All financial benefits including EOP be paid to the NOK of the deceased as admissible under Rule."

29. On the basis of the aforesaid findings, the petitioner was also given other financial benefits, including „Extraordinary Pension .

30. Since the death of the late husband of the petitioner was caused by a stray dog bite that resulted in „Rabies , which stands established by the SCOI, therefore, it is clear that his death resulted from an "accident by outward violent and visible means solely, directly and independently of all other causes". Accordingly, the petitioner is entitled to the „Double Accident Benefit .

31. In view of the above, the petition is allowed, and the respondent no.2 is directed to pay a further amount of Rs.5,00,000/- to the petitioner as per the „Double Accident Benefit clause of the Group Insurance Scheme, within four weeks from the date of this judgment, along with interest @ 6% per annum from the date of the initial payment of Rs. 5 lakhs till the date of the payment.

32. The respondent no. 2 shall also pay costs of Rs. 20,000/- to the petitioner for the present petition.

SHALINDER KAUR, J NAVIN CHAWLA, J APRIL 09, 2025 SU/FRK Click here to check corrigendum, if any