

United India Insurance Company Limited
versus Asha Kumari and others

FAO No.313 of 2017

21.12.2024 Present: Mr. Vanshay Sharma, Advocate vice Mr. Lalit Kumar Sharma, Advocate for the appellant.

Ms. Vandana Kumari, Advocate vice Mr. Sanjay Jaswal, Advocate for the respondents/applicants.

CMP No.23856 of 2024

Applicant [Asha Kumari] being the claimant-widow of late Sh. Surinder Mohan Sharma, has filed instant application under Section 151 of CPC seeking release of 20% of the compensation amount attributable to her share in terms of the award dated 25.02.2017, passed by Learned Motor Accident Claims Tribunal (I), Kangra at Dharamshala in M.A. CP No.50-D/II/2014.

2. Instant application has been filed with the averments that the applicant [Asha Kumari] has taken a house loan, which has swollen to Rs.8,17,388/- as on 6.1.2024, Annexure A-1. It is further averred that the applicant has raised a pension loan and the liability towards the said loan has swollen to Rs.2,42,562/- as on 6.11.2024,

Annexure A-2. It is further averred that in view of loan liability, coupled with the fact that applicant has no other source of income and she is not keeping good health, therefore, in order to discharge her loan liability, a prayer for 20% of the compensation amount has been prayed to be released in her favour. Petitioner has also furnished the Bank Account details as in Annexure A-3 with this application. Application is duly supported by an affidavit.

3. Upon listing of this application, Mr. Vanshay Sharma, learned counsel for the non-applicant/appellant states that in terms of award dated 25.02.2017, the applicant has already been released 50% of compensation amount attributable to her share complied with the fact that the applicant is a pensioner, therefore, the prayer for releasing part of share of compensation may not be accepted.

4. Taking into account the entirety of facts and circumstances, this Court is of the considered view, that the reasons spelt out in

application, for seeking release of 20% of her share of compensation appears to be bonafide and genuine, so as to enable her to make efforts towards discharging the huge loan liability.

Accordingly, the instant application is allowed and this Court directs the non-applicant [United India Insurance Company Ltd.] to release additional 20% of share of compensation to applicant-Asha Kumari, by remitting the same in her Bank Account, as detailed in Annexure A-3, after due verification, within two weeks from today.

Application stand disposed of.

CMP No.24249 of 2024

Applicant-Sagar Sharma, being son of deceased Surinder Mohan Sharma, has filed instant application, praying for release of 20% of the award amount in terms of the award dated 25.02.2017, passed by Learned Motor Accident Claims Tribunal (I), Kangra at Dharamshala in M.A. CP No.50-D/II/2014.

2. Perusal of Paras 5 and 6 of the application, indicate the reasons for seeking

withdrawal of the amount. It is averred that the applicant is pursuing his M.B.A. and is currently running a GYM at Dharamshala and in order to expand his activities, he requires money for this purpose. It is further averred that he seeks release of the amount, so as to discharge huge loan liability, which exists as on today over the family in shape of loan(s) from the Bank etc.

3. In the application, Bank Account details have been furnished as per Annexure A-1. Application is duly supported by an affidavit.

4. Upon listing of this application, learned counsel for the non-applicant/appellant opposed the application, on the ground that the applicant Sagar Sharma has also filed an application for release earlier, whereby 50% of his share i.e. an amount of Rs.1,84,402/- was released by the orders of this Court on 05.05.2018. In these circumstances, it is stated that the instant application may not be allowed.

5. Taking into account the entirety of facts and circumstances, this Court is of the considered

view that the prayer of applicant-Sagar Sharma, for seeking release of 20% of the balance amount of compensation, attributable to his share appears to be genuine, in view of the reasons spelt out in Paras 5 and 6 of the application. Objection raised by learned counsel for non-applicant/appellant opposing the release is without merit, for the reasons that the appellant-company cannot shun away from its liability once the Award still exists.

In these circumstances, the instant application is allowed and this Court orders the non applicants [United India Insurance Company Ltd.] to release additional 20% of the share of compensation to the applicant-Sagar Sharma, by remitting the same in his Bank Account, after due verification within two weeks.

Application stands disposed of.

CMP No.23857 of 2024

Applicant-Tanvi Sharma, being daughter of deceased Surinder Mohan Sharma, has filed instant application praying for release of 50% of the share of compensation in terms of Award dated

25.02.2017, passed by Learned Motor Accident Claims Tribunal (I), Kangra at Dharamshala in M.A. CP No.50-D/II/2014.

2. Perusal of Paras 5 and 6 of the application, indicate the reason for seeking withdrawal of the amount. It is averred that the applicant given birth to a child and on account of her medical expenses, she required money for her personal needs.

3. In the application, Bank Account details have been furnished as per Annexure A/1. Application is duly supported by an affidavit.

4. Upon listing of this application, learned counsel for the non-applicant/appellant has not opposed the application for release.

5. Taking into account the entirety of the facts and circumstances, this Court is of the considered view that the prayer of applicant-Tanvi Sharma, for seeking release of 50% of compensation amount, attributable to her share appears to be genuine, in view of the reasons spelt out in Paras 5 and 6 of the application.

6. In these circumstances, this Court orders the non-applicants [United India Insurance Company Ltd.] to release 50% of the amount of compensation falling to the share of the applicant-Tanvi Sharma, by remitting the same in her Bank Account, after due verification, within two weeks.

Application stands disposed of.

CMP No.24908 of 2024

Applicant-Rupa Sharma, being daughter of the deceased Surinder Mohan Sharma, has filed instant application praying for release of 50% of the award amount in terms of the award dated 25.02.2017, passed by Learned Motor Accident Claims Tribunal (I), Kangra at Dharamshala in M.A. CP No.50-D/II/2014.

2. Perusal of Paras 5 and 6 of the application, indicate the reason for seeking withdrawal of the amount. It is averred that the applicant is serving in private sector and she has urgent need of money emerging from the weak financial condition of her family.

3. In the application, Bank Account details have been furnished as per Annexure A/1. Application is duly supported by an affidavit.

4. Upon listing of this application, learned counsel for the non-applicant/appellant has not opposed the application.

5. Taking into account the entirety of facts and circumstances, this Court is of the considered view that the prayer of applicant-Rupa Sharma, for seeking release of 50% of amount of compensation attributable to her share appears to be genuine, in view of the reasons spelt out in Paras 5 and 6 of the application.

6. In these circumstances, this Court orders the non-applicant [United India Insurance Company Ltd.] to release 50% of amount falling to share of applicant-Rupa Sharma, by remitting the same in her Bank Account, after due verification, within two weeks.

Application stands disposed of.

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List the matter after three weeks.

(Ranjan Sharma)
Judge

December 21, 2024
(himani)