

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C)No.791 of 2022

1. Smt. Ayekpam Dolly Devi, aged about 32 years, W/o Late Yengkhopam Surjit Singh of Athokpam Makha Leikai, PO & PS Thoubal, District-Thoubal, Manipur-795138 presently residing at her parental residence at Sagolband Tera Khamnam Leirak, PO & PS Lamphel, Imphal West District, Manipur.
2. Shri Sorokhaibam Romesh Singh, aged about 39 years, S/o Shri Sorokhaibam Jilla Singh of Charangpat Mayai Leikai, PO & PS Thoubal, District-Thoubal, Manipur-795138.

...Petitioners

- Versus -

1. The Punjab National Bank, Imphal Branch represented by its Chief Manager having its registered office at Thangal Bazar, PO Imphal, PS City, District-Imphal West, Manipur-795001.
2. The Branch Manager, Punjab National Bank, Thangal Bazar Branch having its registered office at Thangal Bazar, PO Imphal, PS City, District-Imphal West, Manipur-795001.

3. PNB Metlife India Insurance Company Limited(formerly known as Metlife India Insurance Company Limited) represented by its Managing Director having its registered office: unit No.701, 702,703, 7th floor, West Wing, Raheja Towers, 26/27 MG Road, Bangalore-560001.

4. Metlife Insurance and Loan Liability of Punjab National Bank(eUBI), Imphal Branch, having its office at MG Avenue, PO & PS City, Imphal West District, Manipur-795001.

...Respondents

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V.MURALIDARAN
ORDER

06.10.2023

[1] Heard Mr. HS. Paonam, learned senior counsel for the petitioners; Mr.L.Gunindro Singh, learned counsel for the respondents 1 and 2 and Mr.I. Somorjit, learned junior counsel to Mr. S.Samarjeet, learned senior panel counsel for the respondents 3 and 4.

[2] This writ petition has been filed by the petitioners for issuance of a writ of mandamus directing the respondents 1 and 2 for repayment of the loan being from PNH Metlife Loan and Life Suraksha (Level Cover) with Group Policy Holder as Punjab National Bank, Group Policy No.00000654 by insurance policy.

[3] Mr. H. S Paonam, the learned senior counsel for the petitioners submitted that the first petitioner's husband, who was a State Government employee, availed a personal loan from the respondent bank for Rs.5.78 lakhs on 24.4.2021 and the second petitioner stood as guarantor for the said loan. At the time of sanction of the loan, an insurance coverage was taken for the loan amount by the husband of the first petitioner to be effective from 29.5.2021 and the first premium of Rs.5056/- has already been paid along with other charges. The husband of the first petitioner died on 9.6.2021 due to cardiac arrest and after the demise, the first petitioner is facing financial problems, coupled with the fact that she is living in a very pathetic condition having two children.

[4] The learned senior counsel further submitted that the husband of the first petitioner joined the insurance policy under PNB Metlife Loan and Life Suraksha (Level Cover) with Group Policy Holder as PNB, Group Policy No.00000654, thereby linking to the loan account and having covered with effect from 29.5.2021. The respondent bank was also aware about the insurance, as it is the group policy.

[5] The learned senior counsel urged that the respondent bank is pressuring the first petitioner for repayment of the loan dues of her deceased husband by whatsoever means. Since the first petitioner is unable to repay the loan out of her source of income, she made a

representation on 8.9.2021 to the second respondent requesting to adjust the loan dues of her deceased husband out of the insurance policy under the group policy. Instead of adjusting the loan dues of the deceased husband of the first petitioner, a letter dated 19.9.2021 was addressed by the first respondent to the Commandant 5th IRB, Thenguchingjin, Imphal East requesting to arrange to credit the terminal benefits in the salary account of the deceased maintained by the first respondent to facilitate loan adjustment.

[6] The learned senior counsel further submitted that on 18.9.2021 the second respondent sent a letter to the first respondent requesting to contact Metlife people for further steps for settlement. According to the learned senior counsel, the first petitioner approached the representative of the third respondent several times for repayment of the loan by settling the insurance policy. However, the third respondent was reluctant to settle the insurance policy for reason best known to them.

[7] The learned senior counsel for the petitioners submitted that since the representation dated 8.9.2021 submitted by the first petitioner has not been considered, she sent a legal notice on 16.10.2021 requesting to settle the loan dues of her husband by adjusting with the proceeds of the insurance policy.

[8] According to the learned senior counsel, the respondents are also harassing the second petitioner and that his salary account has been blocked for the last more than four months so as to adjust the loan amount from his monthly salary. On 7.6.2022, the second petitioner submitted an application to the second respondent requesting to release his salary without any further delay for ensuring his livelihood.

[9] The learned senior counsel submitted that despite the existence of the alternative means to cover up the loan dues of the deceased husband of the first petitioner by claiming the insurance policy, the respondent bank resorted to a means which is depriving the right to live and livelihood of the second petitioner by blocking his salary account which is the only means of the livelihood of the second petitioner and his family. On 8.8.2022, the second petitioner sent a reminder to the second respondent requesting for harnessing other alternative than blocking his bank account for repayment of the personal loan of late Y. Surjit Singh. In the said letter, the second petitioner requested to recover the said loan from the insurance policy subscribed by the deceased after due procedure. Despite the receipt of the reminder, the respondent bank is harassing the petitioners for repayment of loan amount, which is an arbitrary act and the same is to be interfered with by this Court exercising jurisdiction under Article 226 of the Constitution of India.

[10] On the other hand, Mr. L. Gunindro, the learned counsel for the respondents 1 and 2 submitted that as per the terms of the agreement, the second petitioner being guarantor is bound to repay the personal loan availed by the husband of the first petitioner. As per the records available, the husband of the first petitioner died on 9.6.2021 and not on 9.6.2022. As per the terms and conditions of the insurance policy, in case of non-employer-employee groups schemes, the Company shall not be liable to make any payment under the group policy on the occurrence of the insured even during the warning period of 30 days.

[11] The learned counsel submitted that as per free look provision, insured member has a period of 15 days from the date of receipt of the certificate of insurance to review the terms and conditions of the insurance coverage. If the member has any objections to any of the terms and conditions, then he/she has the option to return the certificate of insurance stating the reasons for the objections and shall be entitled to a refund of the premium paid subject to only a deduction of proportionate risk premium for the period of cover, stamp duty charges and expenses towards medical examination. All rights of the member under this policy shall immediately stand extinguished at the cancellation of the certificate of insurance. According to the learned counsel, the petitioner has not

approached this Court with clean hands and had misled the Court by stating that the husband of the first petitioner expired on 9.6.2021 which is beyond the waiting period of 30 days.

[12] The learned counsel further submitted that as per the terms and conditions of the insurance policy, the participation of the Punjab National Bank and the Punjab National Bank customers are purely on a voluntary basis and at the request of the borrower, a sum of Rs.5057/- has been deducted from the saving account of the borrower on 28.5.2021 for issuance of PNB MetLife Loan & Life Suraksha (Level Cover) insurance policy from PNB MetLife India Insurance Company Limited. As such, the PNB MetLife India Insurance Company Limited has issued a PNB Met Life & Life Suraksha in the name of the borrower Yengkokpam Surjit Singh with effective date of coverage from 29.5.2021 to 29.5.2026 for a sum assured amount of R.5.76 lakhs vide certificate No.23815789. The said certificate is issued based on the contract of insurance between PNB Met Life India Insurance Company Limited and the Punjab National Bank and not between the Punjab National Bank and the insured member.

[13] The learned counsel urged that the respondent bank cannot force the PNB MetLife Insurance Company Limited to settle the claim against their terms and conditions. The respondents are to cover the loan dues only when the PNB MetLife Insurance release fund, if the claim is

eligible for claim and settlement under the terms and conditions of the said PNB MetLife Insurance. The respondent bank is also contacting the respondents 3 and 4, but there is no response from them. In the mean time, due to non-payment, the account was downgraded as NPA on 1.12.2021 and the outstanding balance of the loan account is Rs.6,39,143/- as on 31.12.2022 plus upto date interest and other charges. There is no illegality in pursuing to recover the bank's loan, as bank's money is the public money and all actions are done within the ambit of law and as per the terms and conditions of the sanction letter dated 20.4.2021. The petitioners are duty bound to repay the outstanding loan amount. The liability of the principal borrower and the guarantor stands in the same footing and the guarantor cannot be discharged of his liability till the final repayment of the loan. The relation between the respondents 1 and 2 with the third respondent is under a corporate tie-up and the respondents 1 and 2 have no role to play in the decision making process of a claim.

[14] Mr.I. Somorjit, learned junior counsel to Mr. S. Samarjeet, learned senior panel counsel for the respondents 3 and 4 submitted that the husband of the first petitioner opted for a loan from the first respondent which was secured by the Deceased Life Assured by voluntarily opting for the policy. The contract of insurance is a contract based on "uberrimaefidei" i.e. utmost good faith and any claim against the contract

of insurance is payable as per the terms and conditions of the policy. The first petitioner has not intimated any claim against the policy to the respondents 3 and 4 and due to which the same could not be evaluated or processed as per the terms and conditions of the policy. The learned counsel further submitted that till date no claim has been made by the petitioners to the respondents 3 and 4 for processing the claim against the policy. The present writ petition is pre-mature and the same is liable to be dismissed.

[15] This Court considered the rival submissions and also perused the material available on record.

[16] There is no dispute that at the time of availing bank loan with the respondents 1 and 2, the husband of the first petitioner joined the insurance policy under PNB Metlife Loan and Life Suraksha (Level Cover) thereby linking the loan account covered with effect from 29.5.2021. According to the petitioners, the said loan due is covered by the insurance policy. After the demise of the husband of the first petitioner, instead of adjusting the policy amount to the loan dues, the respondent bank is harassing the petitioners and, in fact, the respondent bank blocked the salary account of the second petitioner.

[17] The respondents 3 and 4 admit the availing of loan by the husband of the first petitioner from the respondent bank, which was

secured by the Deceased Life Assured by opting for policy bearing certificate No.23815789. The details whereof have been stated by the respondents 3 and 4 in their affidavit-in-opposition. On a reading of the details furnished by the respondents 3 and 4, it is clear that the husband of the first petitioner has taken the product Met Loan & Life Suraksha – LCS. The date of proposal is 29.5.2021 and the risk commencement date is 29.5.2021. The date of insurance is mentioned as 29.5.2021. The premium amount is Rs.5,056.30 and the sum assured is Rs.5,76,000/-. The policy term is 5 years. In the said details, it has been stated that “*the policy is in force*”.

[18] In paragraph (7) of the affidavit-in-opposition, the respondents 3 and 4 have stated as under:

“7. That, with regard to para No.5 of the Writ Petition, the deponent begs to submit that the contents of the para are admitted to the extent that the husband of the Petitioner No.1 herein had opted for a loan from Respondent No.1 which was secured by the Deceased Life Assured (DLA) by voluntarily opting for the policy bearing certificate No.’23815789’. It is pertinent to the claim against the instant policy has to be processed by the Respondent No.3 and 4 in accordance with the terms and conditions of the policy agreed by the DLA at the proposal stage. However, till date no claim has been made to the company (i.e. Respondents No.3 and 4) for processing the claim against the policy.”

[19] In India, if a personal loan borrower passes away, the treatment of the personal loan and its repayment can vary based on several factors, including the terms of the loan agreement, the lender's policies and the presence of any insurance coverage. Some personal loans come with loan insurance or credit insurance, which may provide coverage in the event of the borrower's death. If the borrower had taken out such insurance, the outstanding loan amount might be covered, either partially or fully by the insurance company. The insurance payout would go towards repaying the outstanding loan balance. As stated supra, the respondents 3 and 4 have admitted the insurance policy towards the loan taken by the husband of the first petitioner and, according to them, the same was in force.

[20] In the light of the statement made by the respondents 3 and 4 in the affidavit-in-opposition and since the respondents 3 and 4 have now come forward and stated that if the petitioners submit a claim, they are ready to process the same in accordance with the terms and conditions of the policy agreed by the DLA, in the interest of justice, it would be appropriate to direct the petitioners, particularly the first petitioner, to make a claim to the respondents 3 and 4 so as to process the claim by the respondents 3 and 4 against the policy in accordance with law.

[21] It is pertinent to note that by illegal means the bank cannot pressurize and/or harass the deceased family members for repayment of the loan, when they lost the bread winner. It is stated that the first petitioner being a widow is living with her two children in a pathetic situation without having any source of income.

[22] Considering the facts and circumstances of the case and taking note of the averments set out in paragraph (7) of the affidavit-in-opposition of the respondents 3 and 4, this Court is inclined to pass the following order:

- (i) The first petitioner is directed to make claim to the competent authority of the respondents 3 and 4 within a period of two weeks from the date of receipt of a copy of this order.
- (ii) Upon receipt of the claim, the competent authority of the respondents 3 and 4 is directed to consider the claim in accordance with law as expeditiously as possible, preferably within a period of four weeks thereafter.
- (iii) Till such time, the respondents 1 and 2 are directed not to take any coercive action against the petitioners

for non-payment of the personal loan availed by the deceased Yengkhokpam Surjit Singh.

[23] With these observations and directions, the writ petition stands disposed of. There will be no order as to costs.

ACTING CHIEF JUSTICE

NFR/FR

John Kom