

Court No. - 40

Case :- WRIT - C No. - 38349 of 2022

Petitioner :- The Oriental Insurance Company Limited Through Its Manager

Respondent :- Smt. Rupa Chaudhari And 5 Others

Counsel for Petitioner :- Akhilesh Sharan Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Akhilesh Sharan Srivastava, learned counsel for the petitioner and Shri Sharad Chandra Upadhyay, learned Standing Counsel for State respondents.

2. Present writ petition has been preferred for quashing the orders dated 6.5.2022 passed by DCC/ District Magistrate, Bijnore by which the petitioner-insurance company was directed to make payment to respondent no.1 under Mukhyamantri Kisan Evam Sarvhit Bima Yojna (in short "the Scheme in question").

3. Learned counsel for the petitioner-insurance company has challenged the impugned order on the ground that the husband of respondent no.1 died due to gun shot injury. The cause of death does not fall in any of the category mentioned in the Scheme in question and as such the order impugned is not sustainable. Moreover, the deceased was also having criminal antecedents and cross-FIR was also there. The deceased was also confined to jail as he was implicated in the murder of his own real brother. Learned counsel for the petitioner, in support of his submissions, has also placed reliance on the judgment dated 7.12.2021 passed in Misc. Bench No.28592 of 2021 (Dhanpata v. State of U.P. & Ors.) wherein in similar circumstances, where the cause of death was 'murder', the Court has declined to interfere in the matter. Reliance has also been placed on the judgment dated 19.4.2023 in Writ-C No.5612 of 2023 (Smt. Rajwati Devi v. State of U.P. & Ors.) as well as the judgment dated 25.11.2020 in Misc. Bench No.22313 of 2020 (Reshma Bano v. State of U.P. & Ors.). Learned counsel for the petitioner, in this backdrop, submits that the claim of respondent no.1 does not cover under the Scheme in question and as such the order impugned is liable to be set aside.

4. On the other hand, learned Standing Counsel has supported the order impugned. On the basis of para 4 of the counter affidavit, he has submitted that the claim of respondent no.1 was rejected on the

ground that her husband was involved in criminal activity. He submits that death of the deceased did not occur during criminal activity. During enquiry by the concerned Sub Divisional Magistrate it was found that the husband of claimant was not involved in any criminal activity and as such the claim of respondent no.1 is sustainable and no interference is required with the order impugned.

5. The matter is pending since one year and inspite of notices the claimant-respondent no.1 had not turned up in the present proceeding.

6. Considering the facts and circumstances, the order impugned cannot sustain and the same is accordingly set aside. The matter is remitted to the concerned District Magistrate to revisit the matter as per law expeditiously and preferably within six weeks from the date of production of certified copy of this order but certainly after giving opportunity to all the stake holders in the matter.

7. The writ petition stands **partly allowed** accordingly.

Order Date :- 30.11.2023

SP/