

Court No. - 7

Case :- MATTERS UNDER ARTICLE 227 No. - 24208 of 2021

Petitioner :- Oriental Insurance Co. Ltd. Lko. Thru. Sr.Divisional Manager

Respondent :- Brijlal @ Brajpal And Ors.

Counsel for Petitioner :- Anil Srivastava, Divyam Krishna, Saumyam Krishna

Counsel for Respondent :- C.S.C., Ajeet Kumar, Rinku Verma

Hon'ble Pankaj Bhatia, J.

1. Heard learned Counsel for the petitioner as well as learned Standing Counsel and Sri Rinku Verma, learned Counsel for the claimants-respondents.

2. The present petition has been filed by the petitioner challenging the award of the Permanent Lok Adalat dated 03.09.2020 (Annexure No.1). Subsequently, by means of amendment, the Government Order dated 21.08.2017 was also challenged.

3. The facts in brief are that the State Government as well as the Insurance Company entered into a Memorandum of Understanding whereby, it was agreed that the Insurance Company would extent the benefit of insurance cover to the poor and paralyzed person, for which, the premium was payable by the State Government. In terms of the Memorandum of Understanding in between the State and the Insurance Company, policies were issued containing the definition of "family". Subsequently, by means of the Government Order dated 21.08.2017, the definition of the "family" was amended to include the family as defined in the Indian Succession Act.

4. The order of Permanent Lok Adalat impugned in the present writ petition, proceeded to award compensation on account of death the brothers, who are the claimants, which according to the petitioner is bad in law. Before the Permanent Lok Adalat, no such plea was taken, however, by amending the writ petition on 18.12.2024, the plea for the first time has been taken that the Government Order dated 21.08.2017 was bad in law.

5. In respect of the pleadings to challenge the said Government Order, which are contained in para 16(a), there is no whisper as to how the said Government Order is liable to be quashed and as to what rights are being affected. In the absence of there being any pleadings with regard to the Government Order dated 21.08.2024 that too after 7 years, no writ to that extent can be granted.

6. The said issue was also considered and decided by this Court, vide judgment and order dated 02.09.2024 passed in Writ-C No.7308 of 2024 (Oriental Insurance Company Limited vs Ram Swaroop and others). Against the said order, it is stated that Special Appeal No.251 of 2024 (The Oriental Insurance Company Limited vs Ram Swaroop and others) has been filed, which is pending consideration.

7. In these circumstances, adopting the reasoning contained in the order dated 02.09.2024 and additionally holding that there are no pleadings in the writ petition with regard to challenge to the Government Order dated 21.08.2017, the said challenge is rejected.

8. Considering the fact that admittedly the definition of the "family" would change by virtue of the Government Order dated 21.08.2017 and finding no error in the finding of the Permanent Lok Adalat, the writ petition deserves to be dismissed.

9. The written statement filed today is taken on record. However, in absence of pleadings seeking quashing of the Government Order, the same are no relevance.

10. With regard to the issue that in the impugned order, the penalty and interest would have been awarded. The said issue was also considered and decided that the interest would not be levelled if the amount of award by the Permanent Lok Adalat is paid within a month.

11. Following the judgment in the case of ***Oriental Insurance Company Limited vs Smt. Kuntesh and others, decided on 06.04.2022 passed in Writ-C No.5317 of 2022***, the award dated 03.09.2020 is modified to the extent that if the amount as awarded is paid within two months, no interest would be payable by the petitioner.

12. Any amount deposited during the pendency of the writ petition, the same shall be relegated to the Permanent Lok Adalat to be paid to the claimants in accordance with law. Any amount deposited in excess shall be refunded to the petitioner.

13. The writ petition is ***allowed partly*** in the above terms.

Order Date :- 19.12.2024
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