

Court No. - 7

Case :- MATTERS UNDER ARTICLE 227 No. - 981 of 2021

Petitioner :- The Oriental Insurance Co.Ltd.Thru. Its Divisional Manager

Respondent :- State Of U.P.Thru.Director Gen.Institutional Finance Andors.

Counsel for Petitioner :- Anchal Mishra

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

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the petitioner and Shri Rinku Verma, learned counsel for the respondent(s).
2. The submission of learned counsel for the petitioner is that the award passed by the Permanent Lok Adalat, is bad in law inasmuch as, the deceased had died on account of murder which was not covered within the policy. He places reliance on the judgment of this Court passed in the case of Reshma Bano vs. State of U.P. in Writ Petition No.22313(M/B) of 2020 decided on 25.11.2020.
3. The counsel for the respondents, on the other hand, argues that this issue was decided by this Court in Writ C No.33719 of 2019 dated 21.10.2019, wherein the case of personal accident was considered and it was held that the definition of personal accident is not inclusive and is exhaustive. A similar effect is the judgment passed in Writ C No.33743 of 2019 dated 21.10.2019.
4. From a perusal of the award impugned, it is recorded that the Permanent Lok Adalat had perused the postmortem report, wherein it was indicated that the cause of death was ante-mortem injuries and based upon the said, a view was found that the death was on account of personal accident.
5. By challenging the said award, in the present writ, even the postmortem report has not been annexed and there are no pleadings that the postmortem report is incorrect. The judgment in the case of **Reshma Bano (supra)**, is per incuriam inasmuch as, it does not consider the earlier judgment in the case of United India Insurance Company Limited vs. State of U.P. and 3 Others which is earlier in point of time. Thus, on both the grounds, the writ petition is **dismissed**. The amount awarded is modified to the extent that in case the amount awarded is paid within two months, the amount of interest shall not be payable. Any amount paid or deposited before this Court during the

pendency of the writ petition shall be relegated to the Permanent Lok Adalat for being paid to the claimant in accordance with law. Any amount, in excess, shall be returned to the petitioner in accordance with law.

6. The said order has been passed following the judgment of this Court in Writ C No.7308 of 2024, Oriental Insurance Company vs. Ram Swaroop and 4 Others.

Order Date :- 19.12.2024

S. Shivhare