

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15630 of 2009

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Smt. Shanti Devi W/O Late Krishna Prasad Yadav @ Krishna Yadav R/O
Mohalla- Shringarhat, P.S.- Sohsarai, Distt.- Nalanda, presently residing at
New Bigrampur, P.S.- Kankarbagh, Distt.- Patna Petitioner/s

Versus

1. The Life Insurance Corporation of India through its Zonal Manager,
Zonal Office at Jeevan Prakash Building, Fraser Road, P.S.- Kotwali,
Distt.- Patna
 2. The Branch Manager, Biharsharif Branch Office Of L.I.C. Of India,
Biharsharif, Distt.- Nalanda
 3. Vijay Kumar S/O Late Krishna Prasad Yadav @ Krishna Yadav R/O
Shringarhat, P.S.- Sohsarai, Distt.- Nalanda
 4. Usha Devi W/O Shiv Kumar Prasad Yadav, D/O Late Krishna Prasad
Yadav R/O Nerari, Balawapur, P.S.- Nerari, Distt.- Nalanda, presently
residing at C/O Vinod Kumar, Mohalla- New Vighrapur, P.S.- Jakkanpur,
Distt.- Patna
 5. Meena Devi W/O Mithilesh Kumar, D/O Late Krishna Yadav R/O
Bheria, P.S.- Nursarai, Distt.- Nalanda Respondent/s
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Appearance :

For the Petitioner/s : Mr. Basant Kumar Tripathy, Advocate
For the Respondent Nos. 1 & 2 : Mr. Rajeev Ranjan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 09-03-2015

Heard the parties.

2. The matter at issue is payment of assured amount of Rs.1 lac against Policy No. 511189034 on account of premature death of policy holder-Krishna Prasad Yadav alias Krishna Yadav.

3. The writ petitioner claims that she, being the widow of the deceased policy holder as also the nominee in the policy issued by the respondent Life Insurance Corporation of India, is entitled to receive the entire claim amount along with penal interest of 20% per annum.

4. The matter has been contested by the respondent nos. 1 and 2. In the counter affidavit filed on their behalf, it has been stated that in the policy of the deceased policy holder, one Sanjay Kumar has been shown as nominee, being brother. It has also been claimed that the aforesaid Sanjay Kumar has raised his

claim before the competent Officer of the respondent Life Insurance Corporation of India for payment of assured amount on account of death of the policy holder. However, a rejoinder has been filed on behalf of the petitioner to assert that, in fact, the petitioner herself is the nominee and is entitled to receive the sum assured.

5. So far as the present proceeding is concerned, admittedly aforesaid Sanjay Kumar is not a party respondent. In absence of aforesaid Sanjay Kumar, the issue raised herein cannot be properly gone into and decided in the present proceeding. Further more, this Court is of the opinion that in view of disputed question of facts raised on behalf of the parties the evidence may be required to be recorded for coming to right conclusion.

6. In the aforesaid factual matrix, particularly in view of disputed question of fact, this Court is not inclined to accede to the prayer made on behalf of the petitioner for grant of relief as enumerated in paragraph 1 of the present writ petition. Consequently, the writ petition has to fail and is, accordingly, dismissed, but without costs.

7. However, the petitioner shall be at liberty to approach the Civil Court of competent jurisdiction for getting the matter adjudicated upon after impleading all the necessary parties and for grant of appropriate relief. If such a civil suit is brought by the petitioner, the same shall be considered and decided in accordance with law without being prejudiced by rejection of the present writ petition.

Tahir/-

(Birendra Prasad Verma, J)

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