

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 29318 of 2014 (L)

PETITIONER(S) :

**DR.CESSY JOB,
PUTHEN VEEDU, ARPOOKARA EAST POST, KOTTAYAM - 8.**

BY ADV. P.V CHANDRA MOHAN

RESPONDENT(S) :

- 1. STATE OF KERALA,
REP.BY THE PRINCIPAL SECRETARY (FINANCE),
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. REGISTRAR,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
COCHIN UNIVERSITY POST, COCHIN - 682 022.**
- 3. DISTRICT INSURANCE OFFICER,
KERALA STATE INSURANCE DEPARTMENT, ERNAKULAM.**
- 4. SR.DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LTD., DIVISIONAL OFFICE,
PUMP JUNCTION, ALUVA.**
- 5. SR.DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LTD., DIVISIONAL OFFICE,
ST.JOSEPH'S PRESS BUILDING, VAZHUTHACAUD,
THIRUVANANTHAPURAM- 695 014.**

R1 & R3 BY GOVERNMENT PLEADER SRI.MUHAMMED SHAFI.M

R2 BY ADV. SRI.V.S.AFSAL KHAN, S.C

R4 & R5 BY SRI.GEORGE CHERIAN (SENIOR ADVOCATE)

ADVS. SMT.K.S.SANTHI

SMT.LATHA SUSAN CHERIAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF ORDER G.O(P) NO.221/07/FIN. DATED 29.05.2007 OF THE FIRST RESPONDENT.
- EXT.P2: TRUE COPY OF PAY SLIP OF HUSBAND OF THE PETITIONER AUGUSTINE J.KATTADY OF DECEMBER 2007 SHOWING THE DEDUCTION OF INSURANCE PREMIUM.
- EXT.P3: TRUE COPY OF THE LETTER DATED 18.08.2010 OF THE SECOND RESPONDENT FORWARDING THE PERSONAL ACCIDENT CLAIM.
- EXT.P4: TRUE COPY OF DISABILITY CERTIFICATE DATED 16.02.2011.
- EXT.P5: TRUE COPY OF DISCHARGE CARD OF THE PETITIONER'S HUSBAND.
- EXT.P6: DEATH CERTIFICATE OF LATE AUGUSTINE J.KATTADY, THE HUSBAND OF THE PETITIONER.
- EXT.P7: LETTER DATED 18.02.2013 OF THE PETITIONER TO THE FIFTH RESPONDENT.
- EXT.P8: LETTER DATED 21.07.2014 OF THE FIFTH RESPONDENT

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 29318 of 2014

Dated this the 27th day of January, 2015

JUDGMENT

The petitioner has approached this Court seeking for a direction to be given to the respondent insurer to pay a sum of ₹7 lakhs covered as per Ext.P1 Scheme with interest from the date of arisen of cause of action on 25.04.2009.

2. The learned counsel for the Insurance Company points out that, the claim has been considered and repudiated by the Company as per Ext.P8. It is pointed out that, the writ petition itself is not maintainable in view of the legal position made clear by this Court on many an occasion, including as per judgment dated 7.7.2008 in W.P. (C). No. 17056 of 2004 and judgment dated 22.7.2004 in O.P. No. 26291 of 2000.

3. After hearing both the sides, this Court finds that the rights and liberties arising out of a contract, particularly, in respect of an insurance policy cannot be adjudicated by this Court in a writ petition filed under Article 226 of the Constitution of India. The remedy of the petitioner lies elsewhere. Accordingly, interference is declined and the writ petition is dismissed, without prejudice to the rights and liberties of the petitioner to approach other appropriate forum.

**P.R. RAMACHANDRA MENON,
JUDGE.**