THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.17940 of 2006

ORDER:

As there was no representation on behalf of the petitioner on 02.12.2015, the matter was directed to be listed on 07.12.2015 under the caption 'for dismissal'. Even today there is no representation on behalf of the petitioner.

Heard learned counsel for the respondents and perused the records.

The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of the first respondent in settling the claims of the husband of the petitioner which was covered by Janata Personal Accident Insurance Scheme as illegal and arbitrary.

The averments in the affidavit filed in support of the petition would show that the husband of the petitioner died on 29.03.2001 in a road accident while traveling as a pillion rider on the scooter. At the time of death, the deceased was working as a conductor in A.P.S.R.T.C. in Ranigunj Depot bearing EPP No.203163. It is stated that Credit Co-operative Society and APSRTC SBT fund were covered by Janata Personal Accident Insurance Schemes. It is stated that the husband of the petitioner was a subscriber of Life Insurance Corporation of India Limited and after the death of the husband of the petitioner, the petitioner addressed correspondence to the Secretary, APSRTC Employees Thrift and Credit Co-operative Society Limited and Secretary and APSRTC, SBT Fund for settlement of claims. She also addressed letter to Life Insurance Corporation of India for settlement of claims. It is stated that though Life Insurance Corporation settled the dues, APSRTC SBT Fund failed to settle the claim on the ground that death of the deceased took place while he was under the influence of liquor. She then got issued legal notice to the respondents. On receiving the legal notice, Secretary, APSRTC SBT Fund directed the petitioner to approach the Insurance Ombudsmen. Accordingly, she approached Ombudsmen for settlement of the claim. It is stated that APSRTC SBT Fund paid the amounts due to her. Thereafter, she again sent legal notice to the respondent requesting to settle the claim since the other two insurance companies have settled the claims due. The first respondent is said to have rejected the request of the petitioner by denying that at the time of accident, the claim is not covered under the policy. Aggrieved thereby, the present Writ Petition is filed.

Learned counsel for the Insurance Company submitted across the Bar that the Writ Petition is not maintainable since the grievance of the petitioner can be addressed either in Motor Accident Claims Tribunal or before the Consumer Forum or before any other appropriate authority where evidence needs to be adduced.

The counter filed by the first respondent would show that they have rejected the claim of the petitioner after verifying the entire claim records including the information available in Post Mortem Examination Report dated 30.03.2001 in Crime No.82 of 2001 of Bowenpally Police Station. A perusal of the Post Mortem Report show that stomach contained 'partially digested food, smelling strongly of alcohol'. Hence, the first respondent has rejected the claim to the petitioner. Merely because the Insurance Company or LIC or APSRTC has accepted the claim, it does not itself compel the first respondent to accept the request of the petitioner. As per clause 4(b) of the policy, the first respondent shall not be made liable for payment of compensation in respect of death while under the influence of intoxicating liquor or drugs.

In view of the above, the request of the petitioner cannot be accepted. Accordingly, the Writ Petition is disposed of leaving it open to the petitioner to avail remedies available under law. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

08.12.2015
vhb