HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.8417 of 2010

Date: 04-11-2015

Between:

G. Venkata Rama Subba Reddy

.... Petitioner

AND

The Insurance Ombudsman, A. C. Guards,

Hyderabad and 2 others

.... Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.8417 of 2010

ORDER:

The present writ petition came to be filed declaring the proceedings in L-21-001-0002-2008-09, dated 18-07-2008 issued by the 1st respondent rejecting the complaint/appeal filed by the petitioner on the ground of delay, as illegal and arbitrary and consequently, to direct the respondents to pay policy amount bearing policy No.653379855 Jeevanmithra (Triple cover endowment plan) which was taken in the year 2004.

The facts leading to filing of the writ petition are that one Gone Venkata Siva Reddy, the father of the petitioner, had taken Jeevanmitra triple cover endowment plan policy No.653379855 in the year 2004 and the date of commencement was 28-02-2004 (133-20) for an assured sum of Rs.1,00,000/-. The father of the petitioner died on 07-03-2004. Initially, the petitioner was arrayed as an accused in Crime No.18 of 2004 at Jammalamadugu Police

Station under Section 302 IPC, which was registered for the death of him and the same case to be numbered as S.C.No.252 of 2004. After a full-fledged trial, the case ended in an acquittal. It is averred that the petitioner made an application to the 3rd respondent claiming payment of amount covered under the policy by enclosing a copy of the judgment in S.C.No.252 of 2004, which was rejected. Challenging the said action, the petitioner preferred an appeal/complaint before the 1st respondent, who dismissed the same on the ground of delay. Aggrieved by the same, the present writ petition came to be filed.

Heard Sri S. Rambabu, learned counsel for the petitioner and Sri Bathula Raj Kiran, learned counsel representing the respondents 2 and 3. In spite of service of notice on the 1st respondent, there is no representation on his behalf.

Learned counsel for the petitioner mainly contended that dismissing the appeal filed by the petitioner on the ground of delay of one year five months beyond the prescribed period of one year is illegal. He submits that the petitioner being a resident of remote village could not prefer the appeal within the time stipulated as there was no proper advice to him with regard to the period of limitation.

On the other hand, the learned standing counsel for the respondents 2 and 3 would submit that as per the Redrerssal of Public Grievances Rules, 1998, which were issued in exercise of the powers conferred under sub-section (1) of Section 114 of the Insurance Act, 1938, the period of limitation prescribed for filing a complaint before an Ombudsman is one year from the date of the order passed by the insurer.

As seen from the record, the father of the petitioner died on 07-03-2004 and after acquittal of the petitioner in the Sessions Case, he made an application to the respondents 2 and 3 seeking claim under policy No.653379855, which was rejected by the insurer on 03-11-2006. Thereafter, the petitioner filed a complaint before the 1st respondent-Ombudsman on 08-04-2008 and the same was dismissed on the ground of delay of more than one year and five months in filing the complaint, as it was beyond the prescribed period of one year from the date of repudiation of the claim by the insurer. Before proceeding further, it may be useful to refer to Rule 13 (3) (b) of the Redressal of Public Grievances

Rules, 1998, which reads as under:

> “No complaint to the Ombudsman shall be made unless-
>
> (b) the complaint is made not later than one year after the insurer had rejected the representation or sent his final reply on the representation of the complainant, ...”

A perusal of the above said provision makes it clear that no complaint to the Ombudsman would lie if the same is made beyond one year of the rejection of the representation. In the instant case, the claim was made in the year 2006 and the same was rejected on 03-11-2006. An appeal/complaint was made to the 1st respondent-Ombudsman on 08-04-2008. It is to be noted that the period of limitation for making the complaint to the Ombudsman against the order of the insurer is one year from the date of the order of the insurer. It is true that there was a delay in making the complaint/ appeal to the Ombudsman, but the same is only five months beyond the prescribed period of one year and not one year five months as held in the order of the 1st respondent dated 18-07-2008.

Since the delay is only five months and having regard to the fact that the claimant was involved in a case which ended in an acquittal, it would be just and proper to direct the 1st respondent-Ombudsman to deal with the matter by condoning the delay and dispose of the same on merits in accordance with law.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 04-11-2015

Ksn