

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1867 of 2015

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Madhu Kant Mishra, son of late Tripati Narayan Mishra, resident of village- +P.O- Govt. Housing Colony Chhota Govind Pur, Qr. No. 113/2/1 P.S. -Chhota Govind Pur Colony, Jamshedpur -831015, Jharkhand, At Present resident of vill- Pokhar Bhinda, P.O- Saket Pur- District- Darbhanga.

.... Petitioner/s

Versus

1. The Regional Manager, LIC, Patna, Bihar.
2. The Regional Manager, The Oriental Insurance Company, CBO-IV, Gangotri Complex, Boring Road, Patna Main Branch, Bihar.
3. Sangeeta Kumari, D/o Ram Bilas Sahu, R/o Mohalla:- Bhojpur Colony, Road No. 8, Ashok Nagar, Kankarbagh.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vivek Prasad, advocate.

For the Respondent/s : Mr. Rajeev Ranjan Prasad, advocate.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 04-03-2016

Heard learned counsel for the parties.

The petitioner has moved the Court for a direction to the respondents no. 1 and 2 to pay him the proceeds of the Jeevan Anand (Accident Benefit) Policy of the L.I.C. of his late son which has been paid to respondent no. 3, who asserts to be the wife of the deceased.

The brief facts of the case are that though the son of the petitioner i.e., Late Amarji Mishra, had taken policy both from the Life Insurance Corporation of India as well as the Oriental Insurance Corporation Limited, the respondent no. 3 was the nominee and accordingly, it appears that she has been paid the benefit of the policies by the concerned insurers. However, learned counsel for the

petitioner submits that respondent no. 3 having no status in the eyes of law, any benefit accruing on account of death of his son, he, being the father, is also entitled to a portion of the proceeds under the Hindu Succession Act moreso, when respondent no. 3 has fraudulently claimed to be the wife.

After hearing learned counsel for the parties, this Court does not find any fault in the action of the Insurance Companies of making payment to the respondent no. 3 as she was the nominee in those policies. However, the law being that nomination to receive certain payments does not take away the right under the law of succession, entitles the petitioner to move for such relief before the appropriate forum, as has also been held by the Hon'ble Supreme Court in the case of *Shipra Sengupta vs. Mridul Sengupta* reported in *2010 (2) PLJR (SC) 1*.

In view of the aforesaid, as prayed for by learned counsel for the petitioner, the writ petition stands disposed off as withdrawn with liberty to recover his share from the respondent no. 3 before the appropriate forum in accordance with law.

(Ahsanuddin Amanullah, J)

Sujit/-

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