IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.10661 of 2015

S.Raja ... Petitioner

Vs.

The Manager (Claims),
Divisional Office-1, P.B.No.324,
L.I.C. Building,
No.324, Anna Salai,
Chennai-600 002. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondent to pay the petitioner a sum of Rs.1,00,000/- + Rs.70,000/- + Rs.5,47,910/- + Rs.70,000/- arising out of four Life Insurance Polices of his wife, the deceased Mrs.Gomathi Gayathri, bearing the Policy Nos.(1)712317614, (2)712976266, (3) 713347671, (4)713348010, together with all the benefits accruing therefrom, with interest at the rate of 15% from the date of dishonoured cheque dated 29.05.2015, till realisation and cost.

For Petitioner : Mr.T.C.S.Raja Chockalingam

For respondent : Mr.Manoj Sreevalsan

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, to direct the respondent to pay the petitioner a sum of Rs.1,00,000/- + Rs.70,000/- + Rs.5,47,910/- + Rs.70,000/- arising out of four Life Insurance Polices of his wife, the deceased Mrs.Gomathi Gayathri, bearing the Policy Nos.(1)712317614, (2)712976266, (3)713347671, (4) 713348010, together with all the benefits accruing therefrom, with interest at the rate of 15% per annum.

2.The brief facts, which are necessary to dispose of the writ petition, are as follows:-

2.1.The marriage between the petitioner and the deceased Gomathi Gayathri had taken place in the year 1994 and out of the wedlock, they had a son by name Sumithra Nadhan Hari, who is now aged about 20 years and studying B.Tech. The petitioner had taken four Life Insurance Policies from the Life Insurance Corporation of India (in short 'LIC') at Chennai, in the name of his wife Mrs.Gomathi Gayathri, during the period from 1996 to 2001. The particulars of the policies are as under:-

S.No.	Policy Number	Date of Commencement	Premium	Sum assured	Date of Maturity
1.	712317614	14-09-1996	Rs.295/- quarterly	Rs.1,00,000/-	14.09.2021
2.	712976266	10-04-1999	Rs.426/- Half Yearly	Rs.70,000/-	10-04-2028
3.	713347671	27-08-2001	Rs.11497/- yearly	Rs.5,47,910/- Rs.1,70,000/-	27-08-2018
4.	713348010	28-11-2001	Rs.290/- Quarterly	Rs.70,000/-	28-11-2021

2-2.The petitioner, his wife & his son had been living happily at Door No.4, Balaji Nagar Main Road Extension, Adambakkam, Chennai. While so, the petitioner's wife committed suicide on 07.08.2005 due to depression. His wife's brother namely one V.Baskar preferred a complaint before the S-8, Adambakkam Police Station, Chennai alleging that his sister (petitioner's wife) committed suicide because of the alleged dowry harassment on part of the petitioner. Soon after the incident, the Inspector of Police, S-9 Adambakkam Police Station visited his house and having thoroughly probed the nature of hanging and having made detailed investigation with the neighbours, found that it was a suicide. However, the complaint preferred by his brother-in-law Baskar was registered as Cr.No.1320/2005 on the same day on 07.08.2005 u/s 498A and 306 IPC. On 08.08.2005, post-mortem was conducted in the G.H. Chrompet, Chennai.

2-3.Thereafter, the petitioner's brother-in-law Mr.V.Baskar having known the nature of his deceased sister and her short tempered behaviour as well as having enquired with the neighbours, realised that his sister (petitioner's wife) has committed suicide because of petty and flimsy reasons. He further admitted that no one was responsible for the death of his sister. The Inspector of Police, S-8, Adambakkam Police Station, Chennai recorded his statement and closed the case as

'Charge Abated'. The learned Magistrate, after having recorded the statement of the Complainant, dropped the charges levelled against the petitioner and the case was closed on 23.08.2005.

2-4.During October, 2005, the petitioner intimated the factum of suicide by his wife, to the respondent through the LIC Agent. The LIC Agent provided the petitioner four claim forms. Accordingly, the petitioner filled up the LIC claim forms and handed over the same to the LIC Agent Mr.Venkateswaran. The respondent issued three cheques against three polices as follows:-

Policy No.	Sum Assured	Cheque amount	Cheque date
712976266	Rs.70,000/-	Rs.69,574/-	29.12.2005
713347671	Rs.1,70,000/-	Rs.5,47,910/-	29.12.2005
713348010	Rs.70,000/-	Rs.69,710/-	29.12.2005

But, subsequently, when presented for payment, the aforesaid three cheques had been stopped by LIC and the cheques were returned as 'payment stopped by drawer'. Soonafter the stoppage of payment of three cheques, the petitioner approached the LIC to know about the reasons for stoppage of payment. The petitioner was informed that the documents submitted by the petitioner were not sufficient to make the payment. In fact, the following documents were already produced by the petitioner_

1.FIR registered on 07.08.2005
2.Post-mortem report dated 08.08.2005
3.S.164 Cr.PC. Statement recorded by the Judicial Magistrate-II, Poonamallee Court, Chennai,
4.Closure report by the Inspector of Police, S-8, Adambakkam, Chennai.

Inspite of production of the said documents, the respondent has not chosen to settle the amount. Hence, the petitioner has come forward with the present writ petition before this Court.

3.The respondent has filed a counter, inter alia, contending as follows:-

3-1.The petitioner has taken four policies in the name of his wife Mrs.Gomathi Gayathri. The petitioner's wife Gomathi Gayathri committed suicided on 07.08.2005 and her brother Baskar had filed a complaint alleging that his sister Gomathi Gayathri had committed suicide due to the dowry harassment on the part of the petitioner. The said complaint was registered in Crime No.1320 of 2005 on the file of the Inspector of Police, S-8 Adambakkam Police Station. The petitioner by his letter dated 21.10.2005 informed the respondent that his wife Gomathi Gayathri had expired on 07.08.2005, enclosing the death certificate and requested for the necessary forms to submit his claims due under the policies. The respondent by letter dated

12.11.2005 called upon the petitioner to submit the case papers like FIR, Post Mortem Report, Police Inquest Report etc. The petitioner by his letter dated 06.12.2005 submitted the following documents_ FIR, Post-Mortem Certificate, and Letter of withdrawal of the complaint by the complainant Baskar. After obtaining the necessary claim forms etc., the respondent processed the claim papers and the claim was settled by issuing three cheques dated 29.12.2005 for Rs.69,574/-, Rs.5,47,910/- and Rs.69,710/- respectively. Being a non-early claim, the claim was processed without asking for closure report of the F.I.R. from the Court. However, on 04.01.2006, it was pointed out by the Divisional Officer of the respondent Corporation that the claim should have been settled only after obtaining certain other documents like 1)Chemical Analaysis Report, 2)Final Death Report and 3)Police Inquest Report. Hence, stop payment instructions were issued to the Bank of Baroda on 07.01.2006 for the cheques already issued in favour of the petitioner. The petitioner was also informed on 07.01.2006 regarding the stop payment instructions.

3-2.Thereafter, on 12.02.2007, the petitioner informed the respondent that he was in the process of obtaining the final Court order. The respondent by letter dated 23.02.2007 informed the petitioner that the final court order is a basic requirement for considering the claim where cause of death is suicide and hence, further processing would be done after the petitioner submits the final court order. The respondent further issued a letter dated 10.09.2007 to the petitioner calling for the final court order. The petitioner gave a reply dated 11.10.2007 stating that he was arranging to get the final court order. As the petitioner did not submit the final court order, the claim could not be processed. The respondent by letter dated 25.09.2012 addressed to the Inspector of Police, Adambakkam Police Station requested for details of the case, whether the case has been dropped/withdrawn or it has been decided in the Court. The respondent on 28.11.2012 issued another letter to the Inspector of Police, Adambakkam Police Station asking them to duly certify the police reports and also furnish the final Court order. However, no reply was forthcoming from the Inspector of Police, Adambakkam Police Station. The respondent sent reminders to the petitioner on 13.02.2013, 22.06.2013 and 27.09.2013 for producing the court order.

3-3.It is further stated by the respondent that the petitioner produced the 164 statement given by the complainant dated 23.08.2005 before the learned Judicial Magistrate No.1, Poonamallee in C.M.P.No.7152 of 2005. In the said 164 statement, the complainant Baskar had informed the Court that nobody was responsible for the suicide of his sister and that he was willing to withdraw the FIR. However, that was not followed with the closure report issued by the learned

Judicial Magistrate. As the final closure report has not been obtained by the petitioner from the Court, the claim has remained unsettled. There is no delay on the part of the respondent in processing the claim. Thus, the respondent sought for dismissal of the writ petition.

4.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and perused the materials available on record.

5.The petitioner had taken four LIC policies in the name of his wife Gomathi Gayathri and she committed suicide on 07.08.2005. Thereafter, the petitioner informed the same to the respondent through his letter date and also by enclosing the death certificate, he requested for the necessary forms to submit his claim due under the said policies. At that juncture, the respondent came to know that the petitioner's brother-in-law Baskar has given a complaint as against the petitioner and the same was registered in Crime No.1320 of 2005 on the file of the Inspector of Police, S-8 Adambakkam Police Station. The respondent by letter dated 12.11.2015 called upon the petitioner to submit the case papers like FIR, Post Mortem Report, Police Inquest Report etc. The petitioner has also produced the following documents_ 1)FIR, 2)Post Mortem Certificate, 3)Letter of withdrawal of the complaint by the complainant. In fact, the petitioner's claim was also processed and cheques dated 29.12.2005 were also issued by the respondent for for Rs.69,574/-, Rs.5,47,910/- and Rs.69,710/- respectively. But, subsequently, the respondent has given instruction to the Bank to stop the payment. In spite of the production of the above said documents by the petitioner, the respondent is insisting the petitioner to produce the final court order.

6.From the perusal of the guidelines of the LIC Policy Conditions, I find that even as per the guidelines for the LIC Policy, in respect of suicide claims, if the Life Assured commits suicide at any time or after the date on which the risk under the policy has commenced, but before the expiry of one year from the date of commencement of the policy, the Policy would become void. Therefore, if the Life Assured commits suicide after one year from the date of commencement of the policy, the respondent Corporation is liable to pay the policy amount.

7.Admittedly, in the present case, the petitioner's wife committed suicide after one year from the date of commencement of the policies. Further, though a complaint was lodged by the brother of the deceased, subsequently the complaint was closed and a closure report was also filed. Though the petitioner tried his best to get the copy of the final closure report from the Court, he could not get it. Inspite of the same, the respondent is insisting the petitioner to produce the final court order. Even according to the respondent, the petitioner has produced a copy of the 164 statement of the complainant, wherein Defacto Complainant had stated that nobody is responsible for the death of his sister Gomathi Gayathri. Under such circumstances, the respondent ought to have settled the claim amount to the petitioner. In my considered opinion, there is no justification on the part of the respondent, in not settling the claim amount to the petitioner. It is also not the case of the respondent that the petitioner has not furnished the necessary documents to them. There is inordinate delay in paying the claim amount. In this regard, a reference could be placed in the judgment of the Hon'ble Supreme Court reported in (1989) 4 SCC 297 [LIC Vs. Gangadhar Vishwanath Ranade], wherein it has been held that Insurer is liable to pay interest on delayed payment of amounts due on maturity of LIC policy where delay occasioned by failure of insurer to fulfill his statutory obligation on some misconceived ground and thus, the Hon'ble Supreme Court directed the LIC to pay 15% interest on the delayed payment.

8.Even in the present case also, inspite of production of all necessary documents viz., FIR, Post-Mortem Certificate and Letter of withdrawal by the complainant and 164 statement of the complaint, on a misconceived reason, the respondent has delayed the payment for nearly 10 years. Hence, the respondent is liable to pay interest @ 15% per annum, on the delayed payment.

9.For the foregoing reasons, the writ petition is allowed. The respondent is directed to pay the amounts, due under the above said four policies, to the petitioner, with interest @ 15% per annum, from the date of claim till the date of realization, within a period of four weeks from the date of receipt of a copy of this order. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssv

To

The Manager (Claims),
Divisional Office-1, P.B.No.324,
L.I.C. Building,
No.324, Anna Salai,
Chennai-600 002.

+3 ccs to Mr.T.C.S.Raja Chockalingam Advocate sr.14669,15078
+1 cc to Mr.Manoj Sreevalsen Advocate sr.14394/16

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