IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.318 of 2018

In

Civil Writ Jurisdiction Case No.2080 of 2017

==

Jitendra Kumar, S/o Ramadhar Singh R/o Village-Belha Manorth P.S.-Bajpatti, District-Sitamarhi.

... ... Appellant/s

Versus

1. The Chief Manager, Punjab National Bank Circle Office, Chanakya Tower R. Block Patna-1
2. The Regional Manager, Punjab National Bank, 68 Kambal Wala Bagh New Mandir, Muzaffarpur.
3. The Branch Manager, Punjab National Bank, Sursand Asali, Sursand Chaulk P.S. Sursand, Distt.Sitamarhi.
4. The Divisional Manager, The Oriental Insurance Company Ltd., Oriental House P.O.-Box No. 7037, A-25/27 Aasaf Ali Raoad, New Delhi-110002.
5. The Branch Manager, P.N.B. Sursand Chawk, Sursand, District- Sitamarhi

... ... Respondent/s

==

Appearance :

For the Appellant/s	:	Mr.Devendra Kumar, Advocate
For the P.N.B.	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Niraj Kumar, Advocate
For Insurance Company	:	Mr. Durgesh Kumar Singh, Advocate.

==

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-12-2018

Re: I.A. No. 4065 of 2018

Heard Shri Devendra Kumar, learned counsel for the appellant, Shri Kumar Priya Ranjan, learned counsel for the Punjab National Bank and Shri Durgesh Kumar Singh, learned counsel for the Oriental Insurance Company Ltd.

2. The appeal is reported to be delayed by 20 days.

3. We have considered the affidavit filed in support of the delay condonation application and we find that sufficient cause has been shown to condone the delay in filing the appeal. The delay is condoned and the appeal shall be treated to be within time.

4. I.A. No. 4065 of 2018 stands allowed accordingly.

Re: L.P.A. No. 318 of 2018

This appeal depicts a very peculiar fact relating to the claim of the appellant regarding insurance benefits under the Prime Minister Suraksha Bima Yojana on the ground that the appellant's mother Nilam Devi while returning from the Bank unfortunately met with an accident on 22nd July, 2015 and she died, yet the insurance claim is not being cleared. The writ petition giving rise to this appeal was filed with an allegation that the deceased had moved an application under the said scheme before the Bank namely the Punjab National Bank and that the premium that was to be deducted from the bank account of the deceased did commence on 11th August, 2015. In the wake of this claim and the fact that the application had been received by the Bank on 13th of June, 2015, the writ petition prayed for an appropriate writ to the respondents to extend the benefit of the said insurance scheme to the petitioner-appellant who is the son of the late deceased Nilam Devi.

2. The learned Single Judge after exchange of affidavits came to the conclusion that since the Bank has stated that an application was found lying around in the bank premises on 10th August, 2015, therefore, it was placed on record which fact was sought to be controverted by the Bank contending that this application was never moved on 13th June, 2015.

3. The contention on behalf of the petitioner-appellant was that the endorsement of 13th June which is the date of receipt of the application is available on the form and consequently the Bank cannot possibly take a plea of having found the application form around in the campus. It is also urged on behalf of the appellant that apart from the fact that the Bank had acknowledged the existence of the application, the premium had also been deducted from the account of the deceased which fortifies the stand that the deceased had already

moved an application for seeking benefit under the Prime Minister Suraksha Bima Yojana.

4. Learned counsel for the Bank Shri Kumar Priya Ranjan contends that the suspicious circumstances clearly indicate that there was no valid application nor does the application bears any receipt or signature of any responsible officer or any other officer of the Bank. Not only this, the petitioner-appellant had not been able to adduce any evidence with regard to receipt of such application and consequently even if the Bank had found the application thrown in the premises on 10th August and the premium was deducted on 11th August, the same would not confer any right because all these transactions were after the death of the bank account holder and quite possible was an act of manipulation. It is contended that in law unless the application is accepted and the deductions are made in accordance with the scheme, the question of extending any such benefit does not arise.

5. Learned counsel for the Insurance Company Shri Durgesh Kumar Singh contends that since the application form did not contain any endorsement of receipt then a mere mentioning of the date of 13th June would not amount to an acknowledgment so as to construe that the application had been

validly made.

6. We have considered the submissions raised and what we find is that if the application had been moved on 13th June, 2015 there does not appear to be any deduction of premium in the Month of July which is in the present case as stated by the learned counsel for the respondents at the rate of Rs. 12/- per annum. Apart from this, the deduction arrives long after the death of the account-holder and the recovery of the application by the Bank on 10th August is also a date long after the death of the deceased. The appellant-petitioner has not been able to bring on record any such material so as to demonstrate the receipt of such application by the Bank or its being recorded in the Bank prior to the death of the deceased i.e. prior to 22nd July, 2015. In the said given circumstances, and the clear cloud cast on the manner in which the application has found its way in the premises of the Bank and then entertained by the officials of the Bank clearly indicates that there is not only possibility but a probability of an act of manipulation after the death of the deceased.

7. Keeping in view these suspicious facts, we are unable to interfere in this matter as these are completely disputed question of fact which cannot be made the basis for the

issuance of a writ as prayed for and, therefore, we are not inclined to entertain the appeal. The same is rejected accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	02.01.2019
Transmission Date	