

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9192 of 2014

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Amrika Devi W/o Late Fudo Mahto @ Ramashish Mahto resident of village -
Harraikh, Ward No - 7, PS - Begusarai Town, Distt - Begusarai.

.... Petitioner/s

Versus

1. Life Insurance Corporation of India represented through the Chairman Cum Managing Director, 4th Floor, West Wing, Yogakshema, P B No. 19953, Jeevan Bhima Marg, Nariman Point, Mumbai - 400021.
2. The Divisional Manager, LIC Divisional Office, Bhagalpur.
3. The Sr. Branch Manager, LIC Branch Office, Near Badi Pokhar, Mohalla - Pokharia, P.S. - Begusarai (Town), Distt - Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Prasad Singh
For the Respondent/s : Mr. Abhimanyu Vatsa, Advocates
Mr. Rajni Kant Singh, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 18-09-2018

The present writ petition has been filed for the following
reliefs—

- (i) *For issuance of a writ of mandamus directing the respondents to pay the petitioner the total sum assured amount under Insurance Policy No. 522163654 issued on 28.03.2003 and Policy No. 523136530 issued on 18.06.2005 under death claims;*
- (ii) *For payment of interest at the penal rate of 18% per annum for delayed payment from the date of accrual till the date of actual payment.*
- (iii) *For payment of cost of litigation and expenses throughout.*



(iv) *For any other relief or reliefs which may deem fit and proper.*

2. The short facts of the case according to the petitioner are that the petitioner's son Santosh Kumar had taken two LIC policies in which the petitioner was a nominee. One policy of Rs. 50,000/- was issued on 28.03.2003 and the other for the same amount issued on 18.06.2005, and in respect of both *premia* were duly paid regularly. On 18.09.2005 Santosh Kumar died by drowning in the river Ganges at Simaria Ghat in the District of Begusarai, but the body was not recovered. An FIR in Begusarai Town P.S. Case No. 290 of 2005 was instituted under Section 302/201 of the Indian Penal Code on 22.09.2005 and after investigation final form was submitted on 25.03.2006 stating that Santosh Kumar along with his friends had gone to the river Ganges for immersion of Vishwakarma idol and was drowned. The police found the incident of drowning to be true. The petitioner thereafter submitted death claim against the two policies with all relevant documents on 15.08.2007 with the Life Insurance Corporation of India (LIC) branch office at Begusarai which were received on 20.08.2007 in the said office. However, despite repeated requests, the death claims were not paid to the petitioner for a considerable period. Finally the petitioner received two cheques bearing no. 061992 and 061993 both dated 06.02.2017 for Rs.



55,373/- and Rs. 50,435/- drawn on Axis Bank Limited without however any interest for the belated payment.

3. Learned counsel for the respondent-Life Insurance Corporation of India (LIC) has filed a counter affidavit in paragraph 9 whereof it has been stated that the petitioner has duly acknowledged payment of the two cheques in question by her letter dated 07.10.2017. The only material justification in the counter affidavit is to be found in paragraph 7 thereof by which the delay is sought to be explained with reference to the presumption of death in terms of the Indian Evidence Act, if a person is not heard of for seven years.

4. Having heard the parties and on consideration of the materials on record, this Court is of the view that the respondent-LIC has miserably failed to explain the delay in settling the claim of the petitioner who is clearly an illiterate lady who has suffered the untold misery of her young son's unnatural death aggravated by the callous inaction of the respondent-LIC. Even if the justification sought to be advanced by the LIC be accepted, there is no whisper of a reason, much less a valid one, for the delay beyond the period of seven years after the death of Santosh Kumar on 18.09.2005 which is not in dispute.

5. Under the circumstances, this Court directs the respondent-LIC to calculate and make payment of simple interest @ 12% per



annum for the period commencing from the date the burden of proof shifted under Section 108 of the Indian Evidence Act, upto the date of actual payment. The payment must be made within eight weeks from the date of receipt/production of a copy of this judgment.

6. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.09.2018
Transmission Date	NA

