IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. No.35951 of 2004

Mrs. S.Sagunthala
W/o. late V.Devaraj ... Petitioner

Vs.

1. Zonal Manager,
   Life Insurance COrporation of India,
   South Zoal Office, LIC Buildings,
   102, Annasalai, Chennai 600 002.

2. Branch Manager,
   Life Insurance Corporation of India,
   100 Feet Road, TATABAD,
   Coimbatore 641 012

3. The Chief General manager,
   ABT parcel Service,
   101, Annasalai, Chennai 600 002.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 and 2 to pay the assured sum on the Life Insurance Policy under "Bima Kiran" plan under Policy NO.700491698 for the value of Rs.2,00,00/- (Two Lakhs) subscribed by the husband of the petitioner late V. Devaraj with the 2nd respondent to her along with interest at 18% p.a from the date of her claim application dated 16.12.2002 till its disbursement .

For Petitioner : Mr. Harsha Raj,
for N.Chandra Raj

For Respondents: Mr. R.S. Anand
for R1 & R2
R3 NA

O R D E R

This writ petition has been filed seeking a direction to the respondents to pay the assured sum on the Life Insurance Policy taken by the petitioner's deceased husband.

2. According to the petitioner, the petitioner's husband one Devaraj was working as a driver in the third respondent concern and he has taken a LIC policy under the " Bima Kiran plan" , in Policy No.700491698, for the value of Rs.2,00,000/- on 07.12.1996. The above policy was taken under the salary recovery scheme and the monthly premium of Rs.180/- was deducted from the salary of the petitioner's husband through his employer, the third respondent, and paid the same to LIC. In the year 1999, he fell in sick due to kidney problem, subsequently, died on 09.02.2001. After his death, there is no intimation from the second respondent regarding the payment of any premium, payable by the petitioner's husband and there is also no intimation from the second respondent regarding lapse of the policy. In the above circumstances, the petitioner had made a representation to the second respondent to pay the policy amount payable under the above policy. But, the second respondent sent a letter dated 27.08.2001 stating that the premium amount was paid only upto December 1999, subsequent to that, the premium amount was not paid and the policy stands lapsed. As the death has taken place when the policy was in a lapsed condition, nothing is payable to the petitioner by the LIC. Thereafter, the petitioner had sent several representations informing the respondents that she did not receive any communication from the second respondent regarding lapse of the policy and sent number of representations to the respondents. Since, the petitioner's representation has not been considered, she has come forward with the present writ petition.

3. The respondents 1 and 2 have filed counter affidavit stating that, the policy was lapsed in the year 2000 itself, for non-payment of premium. The policy commenced on 07.12.1996 and the term of the policy was 30 years with a monthly premium of Rs.180/- under Salary Saving Scheme and the premium was not paid from January 2000. Since the petitioner's husband did not get any salary from January 2000, premium could not been deducted. Now it is not open to the petitioner to say that no lapse notice was sent, and the concerning fact was known to the petitioner. Since the policy pertains to the year 2000 records pertaining to default intimation and lapse intimation could not be traced now. As per the policy condition, the death claim is permissible only if the death occurred within the grace period, if the policy is not in force then the notional paidup value of total premiums paid will be settled as death claim, and the petitioner is not entitled to get the assured sum. Since the policy has been lapsed and the death has also not occurred within 5 years, the petitioner is not entitled for the relief sought for.

4. I have heard both sides and perused the materials available on records.

5. It is an admitted fact that the petitioner's husband has taken a policy from the respondents-LIC. During the tenure of the policy, he died in the year 2001. Now, the respondents are denying the claim of the petitioner on the ground that before the death of the petitioner's husband, the policy stands lapsed for non payment of the premium, and, the petitioner is not entitled for the assured amount. Admittedly, the policy was taken under the Salary Saving Scheme and the premium was deducted from the year 1996 from the salary of the deceased through his employer. The petitioner is the wife of the deceased, and she was not aware whether the premium was paid by the employer or not. Even though it is contended by the respondents that the premium was not deducted from the salary and paid to the respondents-LIC, absolutely, there is no materials available on record to establish the same. The second respondent also stated that the records relating to the policy are not available with them to show that the premium was not paid from the year 2000 and the policy stands lapsed. Assuming that the policy was lapsed, under Section 50 of the Insurance Act 1938, the second respondent is bound to issue notice to the policy holder regarding non-payment of the premium. It is not known whether any such notice was issued either to the deceased or to the petitioner. In the above circumstances, in absence of any materials to show that on the date of death of the petitioner's husband, the policy was lapsed, the respondents cannot refuse to pay the assured sum. In such circumstances, this Court is of the considered view that the respondents-LICis bound to pay the assured sum to the petitioner.

6. Accordingly, this writ petition is allowed and the respondents 1 and 2 are directed to pay the policy amount of Rs.2,00,000/- to the petitioner without any interest within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

mrp
To
1. Zonal Manager,
Life Insurance Corporation of India,
South Zonal Office, LIC Buildings,
102, Annasalai, Chennai 600 002.

2. Branch Manager,
Life Insurance Corporation of India,
100 Feet Road, TATABAD,
Coimbatore 641 012

+1 CC to Mr.R.S. Anand, Advocate sr 86370.

W.P. No.35951 of 2004

RGN(CO)

SP(24/01/2020)