IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.02.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 3716 OF 2011

Southern Railway Employees
Co-operative Credit Society Ltd.
Rep. By its Managing Director
Rail Co-op. Mansion
Dindigul Road, Tiruchirappalli 620 001. .. Petitioner

- Vs -

1. National Insurance Company Ltd.
   Rep. By its Managing Director
   No.3, Middleton Street
   Post Box No.9221, Kolkata 700 071.

2. The Divisional Manager
   National Insurance Company
   Divisional Office, Puducherry.

3. The Branch Manager
   National Insurance Co. Ltd.
   (A Govt. of India Undertaking)
   1st Floor, Muruga Theatre Complex
   No.12, K.K.Road, Villupuram
   Villupuram District. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records from the 3rd respondent relating to the order dated 25.6.2010 and quash the said order dated 25.6.2010 and direct the respondents to settle the Janatha Personal Accident Insurance Policy claims of the twelve members (whose names are given in the list annexed in the typed set) through the petitioner Society and award costs.

For Petitioner : Mr. A.Jenasenan

For Respondents : Mr. S.Vadivel

ORDER

The petitioner is a co-operative society. The petitioner/society entered into an arrangement with the respondent/insurance company for issuance of a group insurance policy in respect of its members, which is known as as Janatha Personal Accident Insurance Scheme, in short known as JPAI. The scheme envisaged coverage for all the members in case of death or accident during the currency of the policy. Initially, the group insurance was taken by the society for the period 2006-2007 and the same was extended for a further period of one year, i.e., 2007-2008. The petitioner society, in furtherance to the arrangement, had paid Rs.100/- per member towards annual premium under the scheme. After the year 2008, the insurance coverage was discontinued for the reason that the same was not beneficial to the members of the society.

2. While the matters stood thus, it appears that during the period of coverage under the policy, 11 members of the society died and one member was injured. The society, which was entrusted with the task of making the claim on behalf of its members, had to collect the details of the members, who had died and also that of the injured member. After collection of the details, when the claim was finally submitted to the insurance company, the same was rejected by the insurance company, vide its proceedings dated 25.6.10. The competent authority, vide the said order, had rejected the claims for the reason that the same could not be considered for settlement due to the delay in submitting the claims, even though the society was aware of the details of the claimants. The said order is put to challenge in the present writ petition.

3. Mr.A.Jenasenan, learned counsel appearing for the petitioner/Society submits that as per the terms of the insurance coverage, the claim under the policy had to be intimated immediately, but in case of delay, a reasonable cause needs to be shown. In this case, the Society had certain difficulties in finding out the facts in support of the claim of the individual members and only after collection of the details of the individual members, the claims were submitted to the insurer. In the said circumstance, there was a delay and the delay by itself cannot be a ground for rejecting the claim of the members of the petitioner/Society.

4. Learned counsel appearing for the petitioner further submits that by reason of delay the claim cannot be repudiated since admittedly the members of the petitioner/Society, in

respect of whom the claims were submitted, were covered under the insurance policy. By citing delay as the reason, the insurance company cannot absolve itself of its liability towards the legitimate claims made by the society on behalf of its deceased/injured members. In fact, no prejudice has been caused to the insurance company by reason of delay and on the other hand, prejudice is only caused to the families of the deceased/injured members for having made the belated claim.

5. Per contra, learned counsel appearing for the respondent/insurance company resisted the claims of the petitioner/Society. Apart from reiterating the reasons as set forth in the impugned order, learned counsel submits that two of the members had committed suicide and one member was found to be under the influence of alcohol, which led to his death. He also submits that the petitioner/Society, which was aware of the details of the members, who were either deceased or injured, due to its slackening action, has not made the claims within the prescribed period. It is further submitted that as per the conditions of the policy, the insured shall forthwith give notice, which means that immediate notice should be given in order to avoid any bogus claims. It is therefore submitted by the learned counsel for the insurance company that the belated filing of the claims by the petitioner/society has not been explained and, therefore, as per the policy conditions, the insurance company has rejected the claims made by the petitioner/society on behalf of its deceased/injured members and, therefore, no interference is called for with the order.

6. Heard the learned counsel appearing for the parties and perused the materials available on record.

7. On a careful perusal of the materials available on record, this Court is unable to appreciate the stand taken by the insurance company merely citing delay as the reason for rejecting the claims made by the petitioner/society. Delay in submitting the claims, as such, cannot be held to be fatal to the claims made by the petitioner/society on behalf of its members. As rightly contended by the learned counsel for the petitioner/society, at best the delay would cause prejudice only to the families of the deceased/injured members and not to the insurance company. Except citing the delay, no other reason has been assigned by the insurance company for rejecting the claims made by the society on behalf of its members.

8. When the policy condition itself has stipulated that in case of delay, a reasonable cause could be shown, in the facts and circumstances of the case, this Court is satisfied that the delay in submitting the claims of the individual deceased/injured employees is neither undue nor has been left unexplained. In view of the same, this Court is unable to appreciate the action of the insurance company in rejecting the claim of the members of the society on the ground of delay.

9. Moreover, the conditions of the policy itself envisage benevolent settlement of the claims and as such the claims cannot be thwarted by the insurance company on mere hyper-technical objections. Further, it is an admitted fact that the accident and death of the various members of the petitioner/society had happened during the currency of the policy and that the policy was well in-force and, therefore, there cannot be any legally acceptable reasons for the insurance company to escape from the liability in discharging the otherwise legitimate claims of the deceased/injured employees of the petitioner/society.

10. Learned counsel appearing for the petitioner/society brought to the notice of this Court the order passed by a learned single Judge of this Court in the case of S.Kala - Vs - National Insurance Co. Ltd. (WP (MD) No.532/2004 - Dated 8.1.2007), wherein direction was issued to the insurance company to settle the claim with interest at 6% p.a. from the date on which the claim became payable till the actual date of payment. It is therefore submitted that in the case on hand as well, the insurance company having rejected the claim of the members of the petitioner/society merely on the ground of delay, the insurance company should be directed to pay interest for the belated payment.

11. A perusal of the decision in Kala's case (supra) reveals that the facts in the said case is similar to the facts in the present case and, therefore, this Court is of the considered view that the claims having been rejected merely on the ground of delay, the claimants are entitled to receive interest on the belated settlement of claims.

12. For the reasons aforesaid, this Court is in agreement with the submissions made on behalf of the petitioner/society. Accordingly, the writ petition is allowed and the impugned order rejecting the claims of the petitioner/society is hereby set aside. The insurance company is directed to forthwith process

the claim of the members of the petitioner/society and settle the claims as per the policy taken by the petitioner/society during the relevant period of time. The insurance company is also directed to pay interest at the rate of 6% p.a. on the claims from the date on which the claim became payable till actual payment is made. The above exercise relating to settlement of the claims shall be initiated and completed by the insurance company within a period of four weeks from the date of receipt of a copy of this order. However, in the facts and circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Managing Director
National Insurance Company Ltd.
No.3, Middleton Street
Post Box No.9221, Kolkata 700 071.

2. The Divisional Manager
National Insurance Company
Divisional Office, Puducherry.

3. The Branch Manager
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(A Govt. of India Undertaking)
1st Floor, Muruga Theatre Complex
No.12, K.K.Road, Villupuram
Villupuram District.

+1 cc to Mr.A.Jenasenan, Advocate, S.R.No.14840

+1 cc to Mr.S.Vadivel, Advocate, S.R.No.14555

VBA(CO)
SSM(13/03/2019).