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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 18th December, 2019

\+ **CM(M) 1749/2019**

MALA SAHNI SETH ..... Petitioner

Through: Mr. Manik Dogra, Mr. Saurabh Seth, Ms. Kanika Agnihotri & Mr. Sumer Dev Seth, Advocates (M-98911393402)

versus

THE NEW INDIA ASSURANCE CO LTD ..... Respondent

Through: Mr. D.D. Singh & Mr. Navdeep Singh, Advocates for R-1 (M-9891246248)

CORAM:
JUSTICE PRATHIBA M. SINGH

<u>Prathiba M. Singh, J.</u> (Oral)

1. The present petition has been filed by the widow of Late. Sh. Sunil Seth – a lawyer, who met with a fatal accident on 5th February, 2017.

2. The deceased had obtained a Personal Accidental Insurance (Individual) Policy (*hereinafter, "Policy"*) from the Respondent – The New India Assurance Co Ltd. The sum assured under the Policy was Rs. 58,75,000/-. The Petitioner was the nominee of the deceased, under the said Policy. The Respondent had appointed a surveyor, who, in his report dated 27th June, 2017, came to the conclusion that - *"<u>the death of Mr. Sunil Seth took place genuinely on 05/02/2017 in a road accident</u>. Hence the claim may be processed accordingly and as per terms and conditions of the policy and its coverage."*. It is submitted that there was also an additional report.

3. However, despite the investigation report, the Respondent failed to honour the claims and took the position that the injury was a *'self-inflicted intentional injury'*. In view of this, the Petitioner filed a complaint before the National Consumer Disputes Redressal Commission (*hereinafter, "NCDRC")*. The said complaint was filed on 20th April, 2018 and thereafter, the matter has been adjourned from time to time. On 16th October, 2019, the matter was adjourned to 12th November, 2020, i.e., for more than a period of one year. The Petitioner has thus approached this Court, seeking early hearing of the complaint before the NCDRC as she is in need of the insurance amount.

4. On the last date, i.e., 9th December, 2019, ld. Counsel, appearing for the insurance company had submitted that since the deceased was riding a Harley Davidson bike, the same constitutes *'self-inflicted intentional injury'*. The Court had observed that such a stand would be unreasonable, as riding a bike could not *per se* be construed as a *'self-inflicted intentional injury'* and considering the report of the surveyor appointed by the Insurance company itself, that the same was clearly an accident, instructions be sought.

5. Today, ld. counsel appearing for the Respondent submits that the Respondent has no objection if the hearing before the NCDRC is directed to be advanced to an earlier date.

6. The case put up by the Respondent, of *'self-inflicted intentional injury',* has to be examined in the light of the various facts, as also the reports by the surveyor. Moreover, when any person meets with a fatal accident of this nature, to term the same as *'self-inflicted intentional injury'* would be extremely insensitive. The stand of the Insurance company reflects a serious prejudice. Whenever claims for insurance are made, the same

ought to be treated with compassion and sensitivity of the family members ought to be borne in mind. The insured and their families ought not to be made to run from pillar to post for getting their claims. The effort ought to be to empathise with the insured and families, rather than taking an adversarial stand.

7. The contentions of the Respondent shall, however, be considered by the NCDRC. Owing to the fact that the date given is more than one year away, the NCDRC is requested to hear this matter on an early date and pass final orders, after adjudicating the disputes between the parties. The parties may appear before the NCDRC for the purposes of fixing a short date for hearing in the matter. The NCDRC is requested to consider the Petitioner's plea for early hearing. An endeavour shall be made to dispose of the complaint within a period of six months.

8. The NCDRC shall hear the matter on merits. List before the NCDRC on 20th January, 2020.

9. With these observations, the petition and all pending applications are disposed of. A copy of this order be sent to the NCDRC for being placed before the Bench, in Consumer Case No. 971/18 titled *Mala Sahni Seth v. New India Assurance Company Ltd.*

PRATHIBA M. SINGH
JUDGE

DECEMBER 18, 2019
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