116 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

<u>Civil Writ Petition No. 23562 of 2019 (O&M)</u>
Date of Decision: February 05, 2020

Raghubir Singh ....petitioner

Versus

Bajaj Allianz Life Insurance Co. Ltd. and others ....respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Naresh Kaushik, Advocate for
Mr. Vinod S. Bhardwaj, Advocate
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

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<u>Lisa Gill, J.</u>

The petitioner in this case seeks a direction to respondents No. 1 and 2 to release the benefit of insurance Policy No. 0319113727 dated 09.10.2014 (Annexure P1). It is submitted that the insured Sunil Kumar son of Birbal Singh passed away on 27.12.2014. The present petitioner, it is submitted, is the nominee as is reflected in the policy dated 09.10.2014. When the sum assured was not released, the petitioner filed a complaint under Section 12 of the Consumer Protection Act, 1986 against respondents No. 1 and 2 as well as respondent No. 3 - Rajbala, who is the mother of the deceased Sunil Kumar.

Respondent – insurance company repudiated the claim and filed written statement taking various preliminary objections. It is specifically stated that the claimant failed to prove his identity as a nominee under the policy and also did not comply with mandatory requirements for settlement of death claim, which was admittedly in favour of class-I legal heir for a sum of Rs.6,37,500/-. The insurance company raised an objection to succession certificate issued by a Court of competent jurisdiction not being submitted. It is further stated in the written statement that the deceased – Sunil Kumar had nominated his brother Raghubir Singh as a nominee but as per the identity proof submitted by the present petitioner his father's name was mentioned as Zile Singh and not Birbal Singh. No proof, it is further stated in the written statement, was submitted by the petitioner to prove that he was indeed the brother of the deceased - Sunil Kumar son of Birbal Singh. Respondent No. 3 – mother of the deceased - Sunil Kumar also opposed the petitioner's case and claimed herself to be the sole legal heir of Sunil Kumar – deceased. She further took a stand that her thumb impressions were taken on a number of blank papers which were misused by the petitioner. Learned District Consumer Disputes Redressal Forum, Kaithal dismissed the complaint as infructuous while observing that the insurance company has not repudiated the death claim and has admitted the same as per the terms and conditions of the policy in favour of Class I legal heir of the deceased. It is further observed that the present petitioner or the Class-I legal heir can receive the claim after submitting the required succession certificate.

Admittedly, order dated 11.07.2016 was not the subject matter of any challenge by the petitioner. Present writ petition was filed in August, 2019 seeking release of benefit of the life insurance policy in question.

I have heard learned counsel for the petitioner and have gone through the file.

Learned counsel for the petitioner is firstly unable to point out as to how the present writ petition is maintainable. He is also unable to refer to any document to indicate the petitioner to be the brother of the deceased – Sunil Kumar. Mother of Sunil Kumar (deceased) has claimed herself to be his sole legal heir. Admittedly, disputed questions of fact are involved in this petition. It is a settled position that the same cannot be decided in the present proceedings.

Accordingly, this writ petition is dismissed with no order as to costs. Needless to say, the petitioner is at liberty to avail any remedy, if any, as may be available to him in accordance with law.

(Lisa Gill)
Judge

February 05, 2020
rts

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No