21.11.2022
Item No. 26
Ct. No. 25
PG

W.P.A. 15752 of 2019

Smt. Soma Ghosh
Vs.
The Life Insurance Corporation of India & Ors.

Mr. Tulsi Das Ray
Mr. Tapan Ray
Mr. Tirthankar Roy……..for the petitioner

Mr. D.K. Kundu
Mr. A. Basu……………for the LICI

The writ petitioner has prayed for a direction upon the Life Insurance Corporation of India (for short 'Corporation') to disburse the amount on account of policy no. 423681257 standing in the name of the deceased husband of the petitioner and for prohibiting the Corporation from making any payment in favour of the nominee.

The writ petitioner claims to be the wife of one Chanchal Kumar Ghosh (since deceased). The policy in question stood in the name of the deceased husband of the petitioner. The husband of the petitioner died on May 4, 2016. The writ petitioner claims to be the only surviving legal heir of the said Chanchal Kumar Ghosh.

Mr. Ray, learned advocate for the petitioner submits that the petitioner being the widow of said Chanchal Kumar Ghosh is entitled to the death claim in respect of the said life insurance policy standing in the name of Chanchal Kumar Ghosh. He further submits that the amount should not be disbursed in favour of the nominee as the nominee do not have any beneficial interest in the said amount.

The learned advocate appearing on behalf of the Corporation submits that section 39 of the Insurance Act, 1938 (for short 'the Act') lays down that the holder of a policy of life insurance may nominate the person or persons, whom the money is secured by the policy shall be paid in the event of his death. He thus, submits that the Corporation in its communication dated February 21, 2018 stated that the payment can be made to the recorded nominee as per the rules. He also relied upon a decision of the Hon'ble Supreme Court of India reported at **AIR 1984 SC 346 (Sarabati Devi & Ors. vs. Usha Devi)** in support of his contention that upon payment of the amount to the nominee, the insurer gets a valid discharge of its liability under the policy.

Heard the learned advocates for the parties and perused the materials placed. There is no quarrel to the proposition of law settled by the Hon'ble Supreme Court of India in *Sarabati Devi (supra)* wherein it has been held that a mere nomination made under section 39 of the Act does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. Nomination only indicates the hand, which is authorised to receive the amount on the payment of which the insurer gets a valid discharge of its liability under the policy and the amount however, can be claimed by the heirs of the assured in accordance with law of succession governing them.

Though the action of the Corporation in observing that the amount shall be paid to the recorded nominee cannot be said to be an arbitrary exercise of power but it is not disputed by the Corporation that the nominee of the policy in question has not approached the Corporation claiming the amount under the policy. In spite of notice upon the nominee, the nominee has not appeared before this Court. Therefore, it appears to this Court that the nominee is not interested to claim the amount under the policy nor has any objection to the amount of death claim being released in favour of the heirs.

The petitioner claims to be an heir of the assured in accordance with law of succession governing her and claims beneficial interest in the said amount. In the facts of this instant case, since the nominee is not turning up for claiming the said amount from the Corporation, no useful purpose will be served in keeping the amount lying idle with the Corporation.

This Court therefore holds that the amount of death claim in terms of the policy in question be released in favour of the heir/heiress of the deceased upon compliance of formalities in this regard.

For the reasons aforesaid, the Corporation is directed to inform the petitioner the formalities that are required to be complied with by the petitioner for claiming the amount in the instant case. Said intimation shall be given by the Corporation to the petitioner within a period of three weeks from this date. The Corporation shall also give sufficient time to the petitioner to comply with the formalities that are required to be complied with in this case and upon such formalities being complied with, the amount shall be disbursed in favour of the rightful claimant(s).

With the above observations/directions, the writ petition stands disposed of.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)