

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15115 of 2022

Sangeeta Jena

....

Petitioner

-versus-

**The GM, ICICI Lombard
General Insurance Co. Ltd. &
Ors.**

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

**ORDER
03.11.2022**

Order No

06.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.K. Nayak, learned counsel for the Petitioner, Mr. Srinivas Pattnaik, learned counsel appearing for O.P. No. 2 and Mr. A.K. Nayak, learned counsel on behalf of Mr. Santanu Kumar Sarangi, learned Sr. Counsel appearing for O.P. No. 1.

3. This writ Petition has been filed by the Petitioner seeking direction on the O.P. No. 1 to pay the compensation as claimed by him in his application dtd.18.06.2019 under Annexure-5.

4. It is submitted that in respect of an accident which took place on 02.01.2018 the claim of the Petitioner made on 18.06.2019 was not considered by the O.P. No. 1 on the ground that the said claim was not made within the period of limitation and there is inordinate delay in reporting the matter.

5. Mr. Nayak, learned counsel for the Petitioner brought to the notice of this Court the communication issued by the O.P. No. 2

under Annexure-6 on 17.03.2022 indicating such fact. Mr. Nayak, however, submitted that arising out of the same accident the claim made by the father of the present Petitioner was not only allowed by this Court, but also the O.P. No. 1 complied the said direction by paying compensation amount of Rs.2,00,000/- (Rs. Two lakhs) vide cheque No.474990 dtd.06.09.2022. It is accordingly submitted that since the claim of the father of the present Petitioner arising out of the self same accident has been allowed by O.P. No. 1, the ground on which the same has been rejected and reflected in Annexure-6 is not legal and justified.

6. Mr. Pattnaik, learned counsel appearing for the Corporation-O.P. No. 2 on the other hand submitted that both the applications of the present Petitioner as well as of his father was forwarded by the Corporation on 31.07.2019 and the claim of the father while was allowed by the Company-O.P. No.1 on the intervention of this Court, but the self same claim of the present Petitioner has been rejected on the ground that there is inordinate delay in reporting the matter.

7. However, Mr. Pattnaik, learned counsel appearing for the O.P. No. 2 submitted that in fact there is no delay in forwarding the application of the Petitioner and there is also no stipulation in the policy condition debarring the Corporation from forwarding such nature of claim.

8. Mr. A.K. Nayak, learned counsel appearing for O.P. No. 1 on the other hand submitted that since the accident occurred on 02.01.2018 and the claim application was only forwarded on 31.07.2019 by the O.P. No. 2, the same has been rightly rejected.

9. Having heard learned counsel for the Parties and after going through the materials available on record, this Court finds that similar claim raised by the father of the present Petitioner arising out of the self same incident has been complied with by the Opp. Party No. 1 by paying compensation amount of Rs.2,00,000/- (Rs. Two lakhs) in terms of the order passed by this Court in W.P.(C) No.10455 of 2022 and order dtd.13.09.2022 passed in CONTC No. 4769 of 2022.

10. Since similar clam arising out of the self same accident has been accepted by the O.P. No. 1, this Court finds that the ground on which the claim of the Petitioner has been rejected is not legal and justified. Accordingly, while interfering with the same, this Court directs the Opp. Party No. 1 to consider the application of the Petitioner so forwarded by the Opp. Party No. 2 on 31.07.2019 and pay similar amount in favour of the Petitioner as has been extended in favour of Naba Kishore Mohapatra (Petitioner in W.P.(C) No.10455 of 2022). The said exercise shall be completed within a period of two (2) months from the date of receipt of this order. Since O.P. No. 1 is representing by a counsel, he is directed to provide a copy of this order before Opp. Party No. 1 for compliance.

11. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha