



Writ Petition No.22565 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **28.11.2022**

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.22565 of 2017 &

W.M.P.No.23691 of 2017

D.Babu Reddy

... Petitioner

Vs

1. The Regional Manager,
The New India Assurance Company Ltd.,
Claims Hub, Chennai RO 710 000,
Sundaram Finance Building, 2nd Floor, B-Block,
No.21, Patullos Road, Chennai – 600 002.
2. The Branch Manager,
New India Assurance Company Ltd.,
Minjur Extension Counter, Minjur – 601 203.
3. Mr.Chandru, Proprietor,
The Mars Investigation Agency,
No.12, K.K.Complex First Floor,
Choolaimedu High Road, Chennai – 600 094.
4. The Village Administrative Officer,
No.86, Athamanacheri Village,
No.87, Somancheri Village, Ponneri Taluk,
Thiruvallur District.



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5. The Sub Inspector of Police,
E-4, Kattur Police Station, Thiruvallur District.

6. The Assistant Director – [ADAH],
Animal & Husbandry, Veterinary Department,
Ponneri Taluk – 601 2014, Thiruvallur District.

7. The Insurance Ombudsman
[Tamil Nadu & Puducherry],
Fathima Akthar Court, 4th Floor,
No.453, Anna Salai, Teynampet,
Chennai – 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Award passed by the seventh respondent dated 31.03.2017 in Award No.IO/CHN/A/GI/0181/2016-2017 confirming the Order passed by the first respondent dated 17.08.2016 and quash the same and to direct the first respondent to disburse the claim made by the petitioner for the death and loss of 112 + 80 sheep respectively as per the claim forms submitted by the petitioner along with certificates together with interest.

For petitioner ... Mr.K.Sivakumar

For respondents ... Mr.R.Radhadevi – R1 & R2

No appearance – R3

Mr.P.Sathish, Addl. Govt. Pleader – R4 & R5

Mrs.V.Yamunadevi – Spl. Govt. Pleader – R6



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Ms.Harini
for M/s.M.B.Gopalan Associates – R7

ORDER

This Writ Petition has been filed to quash the impugned Award passed by the seventh respondent dated 31.03.2017 confirming the Order passed by the first respondent dated 17.08.2016 and to direct the first respondent to disburse the claim made by the petitioner for the death and loss of 112 + 80 sheep respectively as per the claim forms submitted by the petitioner along with certificates together with interest.

2. The case of the petitioner is that he is a farmer by profession and had reared 192 sheep in his village. His further contention is that out of which 112 died due to illness and the remaining 80 have been washed away in the flood on 02.12.2015. According to him, he has insured his sheep with the first respondent Insurance company. When he presented the claim for insurance amount, the same has been rejected. Thereafter, the ombudsman has also rejected the same. Challenging the same, the present Writ Petition has been filed.



3. The learned counsel appearing for the respondents submit that the entire claim is nothing but false claim. During enquiry, the investigator, appointed by the Ombudsman, has clearly found that no such incident has taken place and submitted that the Writ Petition is not maintainable to decide all these facts.

4. I have perused the entire Order of the Ombudsman. Though it is stated by the petitioner that 80 sheep have been washed away during the floods, there is no materials to show that immediately such incident has been reported to Tahsildar or Government authorities at the relevant point of time. The petitioner has claimed some certificate issued by a Village Administrative Officer. However, during enquiry by the Investigator, the Village Administrative Officer has resiled from the same and stated that the sheep have not been washed away. Similarly, the certificate said to have been given by one Sub Inspector has also not been established. On investigation, it is found that no such incident took place as alleged by the petitioner. It is further revealed that sheep allegedly died due to illness were also found alive. These are all facts taken into consideration by the Ombudsman.



5. In such view of the matter, when the very allegation that the sheep have been washed away during the flood has not been established and the claim has been made on the basis of a false statement, this Court is of the view that the Order of the Ombudsman does not require any interference. Further, this Writ Petition for compensation also is not maintainable. The petitioner has approached this Court directly. He ought to have either filed a complaint before the District Consumer Forum or approached the Civil Court to establish certain factual aspects. When the facts are disputed and the petitioner relying upon certain documents, those documents should be proved in the manner known to law. Therefore, the same cannot be gone into in this Writ Petition. Hence, I do not find any merits in this Writ Petition.

6. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

28.11.2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

vrc

5/7



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N. SATHISH KUMAR, J

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