



W.P.(MD).No.7365 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 18.07.2011

ORDER PRONOUNDED ON : 20.07.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

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S.Shanmugavalli

...Petitioner

Vs

1.The Managing Director
Southern Railway Employees Co-operative Credit Society Ltd.,
Dindigul Road
Tiruchirappalli 620 001

2.The General Manager
National Insurance Company Ltd.,
Trichy

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of letter dated 02.02.2011 relating to the letter No.JPA1/2/2011 dated 02.02.2011 passed by the first respondent and consequently the order passed by the second respondent dated 02.02.2011 as against the petitioner and quash the same and directing the respondents to sanction the accident claim benefits of the petitioner's husband to the petitioner.

For Petitioner	: Mr.K.Guhan
For R1	: Mr.H.Mohamed Imran
	For Mr.S.Sethuraman
For R2	: Mr.D.Sivaraman



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ORDER

The present writ petition has been filed challenging an order passed by the first respondent under which the request of the petitioner for accident claim has been rejected.

2. According to the petitioner, the petitioner's husband was working in Southern Railway from 19.10.1980 onwards. He was a member of the first respondent Society. He was removed from service on 10.08.1998. Thereafter, he met with an accident and passed away on 10.12.1999. The conviction of the petitioner's husband was challenged by the writ petitioner after death of her husband. The said conviction was set aside on 21.08.2009. According to the petitioner, her husband being a member of the first respondent Society, he has an accident coverage Insurance Policy namely Janatha Personal Accident Insurance Policy. Since the petitioner's husband had passed away due to an accident, she is entitled to receive the said compensation.

3. The petitioner made an application to the first respondent Co-operative Society on 02.02.2011. On the same day, the first respondent Society has sent impugned communication stating that as per agreement of the Society with the second respondent Insurance Company, the claim should



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be submitted to the Insurance Company within a period of 30 days from the date of death. Since the petitioner's husband had passed away in the year 1999 and the claim is made in the year 2011, the same has to be decided only by the Insurance Company. This communication is under challenge in the present writ petition.

4. According to the learned counsel for the petitioner, her husband died on 10.12.1999. Since criminal case was pending and it was disposed of only on 21.08.2009, there was some delay in approaching the Society in getting the Insurance claim. Hence, he prayed for allowing the writ petition with a direction to the Insurance Company to disburse the claim amount.

5. The learned counsel appearing for the Co-operative Society had contended that they are having a tie up with the Insurance Company and hence, it is for the Insurance Company to decide about the acceptability or rejection of the claim.

6. The learned counsel appearing for the second respondent/Insurance Company pointed out that as per Condition No.1, unless reasonable cause is shown, claim should be made within a period of one calendar month after the event which may give rise to a claim under the policy. Hence, he contended that since the petitioner's husband had passed away on 10.12.1999 and the claim being made on 02.02.2011, the same cannot be considered in view of the policy condition.



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7.I have considered the submissions made on either side.

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8.The petitioner's husband was admittedly a member of Janatha Personal Accident Insurance Policy. This policy was taken by the first respondent Society in which the petitioner's husband was a member while he was working as a Helper in the Southern Railway. The petitioner's husband was removed from service due to conviction in a criminal case. While he was out of service, he died due to accident on 21.08.2009.

9.The petitioner's husband can be a member of the first respondent Society only if he continues to be an employee of the Southern Railway. Admittedly, he was removed from service on 10.08.1998 and thereafter, he cannot be a member of the first respondent Society. The byelaws of the first respondent Society have not been produced to find out whether after removal or retirement from service of the Southern Railway, any one would continue as member of the Co-operative Society or not. The claim under an Insurance Policy can be made only strictly in accordance with condition incorporated therein. In the present case, the claim has not been made within a period of one month from the date of death. The pendency of a criminal case is no way connected with a claim to be made before the second respondent Insurance Company. Hence, the petitioner has not made out any reasonable cause for making a claim after lapse of 13 years.



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10.I do not find any merit in the present writ petition. The writ petition stands dismissed. No costs.

20 .07.2022

Internet : Yes/No
Index : Yes/No
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R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

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