BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 17.10.2022

ORDER PRONOUNCED ON : 27.10.2022

CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR
W.P.(MD).No.17166 of 2013

A.Mercy .....Petitioner

Vs

1.The Executive Director
BHEL, Trichy

2.The Regional Manager
IC Housing Finance Ltd.,
2nd Floor, Jeevan Deep Building
10, Sansad Marg
New Delhi 110 001

3.Housing Development Finance Corporation Limited
ITC Centre, No.760
Anna Salai, Chennai – 2 ....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to relinquish the housing loan within a period stipulated by this Court by considering the petitioner's representation dated 12.12.2012.

For Petitioner	: Mr.B.Janarth Kumar
For R1	: Mr.Raguvaran Gopalan
For R2	: Mr.V.Veerapandian
For R3	: No appearance

ORDER

The present writ petition has been filed for a mandamus directing the first respondent to relinquish housing loan within a period by considering the representation of the petitioner dated 12.12.2012.

2.According to the learned counsel for the petitioner, the petitioner's husband M.Arputhanathan was employed as a driver in the first respondent organisation. He had borrowed a housing loan of Rs.8/- lakhs from the third respondent Bank in the year 2004. Being an employee of the first respondent organisation, the petitioner became a member of a Group Insurance Policy. As per the said policy, if a member dies without payment of the housing loan, the same would be taken care by the Insurance Policy to an extent of Rs.3.5 lakhs.

3.According to the petitioner, her husband has become a member of the said Group Insurance Policy on 01.03.2015 and unfortunately he passed away on 28.03.2005. The premium for the first month was deducted from his salary on 31.03.2005. Since the premium amount has already been deducted from his salary, he had already become a member of the said Group Insurance Policy. When the petitioner's husband is a member of the Insurance Policy, the second respondent Insurance Company ought to have honoured the said policy and released the claim amount. Since there was a delay on the part of the second respondent Insurance Company in releasing the said amount, the petitioner's daughter had paid the amount on her own to the third respondent Bank and closed the loan account. Hence, the petitioner has prayed for releasing the said claim amount in the present writ petition.

4.Per contra, the Life Insurance Corporation had contended that the petitioner's husband had died on 28.03.2005 but the premium amount of Rs.50/- has been deducted from the salary of the petitioner's husband only on 31.03.2005. In other words, the premium for the Group Insurance Policy has been deducted after the death of insured. Hence, when the claim form was sent to the L.I.C by the first respondent employer, the same could be honoured by the L.I.C. Hence, he prayed for dismissal of the writ petition.

5.I have considered the submissions made on either side and perused the materials available on record.

6.The first respondent employer has filed a typed set of papers containing the condition of the BHEL Employees Housing Loan Group Insurance Scheme, the application presented by the petitioner's husband, the claim form submitted by the employer to the L.I.C and the death certificate. According to the learned counsel for the petitioner, the petitioner's husband had become a member of the Insurance Scheme on 01.03.2005. He had relied upon the typed set filed by the employer of the petitioner's husband. A careful perusal of the said application form, will clearly indicate that on 28.02.2005, the petitioner's husband has got a certificate from the lending agency namely the third respondent bank with regard to the disbursal amount on the said date. Thereafter, the petitioner's husband had signed the self-declaration form on 01.03.2005. However, there is no proof whatsoever to prove that the said application was presented to the employer on 01.03.2005 itself.

7.A perusal of the claim form submitted by the employer to the Insurance Company will clearly indicate that the petitioner's husband has joined the scheme only on 25.03.2005. It also discloses that 25.03.2005 alone is the last working day in which the petitioner's husband has attended the office. Hence, a suspicion has arisen as to on which date the application was presented to the employer for joining the group insurance scheme. Three days thereafter, the employee had passed away on 28.03.2005. Therefore, a careful scrutiny of the claim form clearly reveals that the application form of the employee has been received by the employer on the last working day of the employee. Thereafter, the employee had not attended the office and he had died after three days namely 28.03.2005.

8.After the death of the employee on 28.03.2005, the employer has proceeded to deduct the premium amount from the salary of the deceased employee on 31.03.2005. After deducting the said premium amount, it has been forwarded to the L.I.C by way of a consolidated cheque of the premium amount of all the employees. The Life Insurance Corporation has accepted the said consolidated cheque. However, when a claim form was presented to them, the L.I.C has pointed out that the premium amount has been deducted after death of the employee and hence, even before the contract to come into effect, the insured had passed away. On the said ground, the claim has been repudiated by the L.I.C.

9. There is no proof from the side of the petitioner as to the date on which the application form was presented to the employer. The claim form reflects the date of entry into the scheme as 25.03.2005 which is the last working day of the employee.

10.A narration of the above said dates and events will clearly disclose that a reasonable suspicion arises with regard to the date on which the employee has joined the Group Insurance Policy. The premium for the said policy has been deducted after death of the insured person. Hence, it is clear that even before the contract of Insurance came into effect, the deceased had passed away. In such circumstances, the repudiation of the claim by the second respondent Corporation cannot be found fault with. Hence, this Court finds that a mandamus cannot be issued as against the employee or Insurance Corporation for disbursing the claim amount.

11.In view of the above said facts, there are no merits in the writ petition. The writ petition stands dismissed. No costs.

27.10.2022

Internet : Yes/No
Index : Yes/No
msa

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.17166 of 2013

27.10.2022