



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.03.2022
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
W.P. (MD) No. 5055 of 2022

Reeta

... Petitioner

Vs.

1. The Commandant,
No.77, Battalion BSF,
Navgam Post,
Kupwara District,
Kashmir - 190 003.
2. The Account Officer,
Pan BSF Funds Section,
Pushpa Bhavan Madangir,
New Delhi - 110 062.
3. The Inspector General (Welfare),
Border Security Force,
C.G.O. Complex,
Lodhi Road, New Delhi - 110 003.
4. The Manager,
United India Insurance Company Limited,
Do-X1, Maker Bhavan No.1,
1st Floor, SIR, V.T.Marg,
Mumbai - 400 020.
5. The Manager,
United India Insurance Company Limited,
24, Whites Road,
Peter Colony,
Royapetah,
Chennai - 600 086.

6. Mary Sudha

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the first to fifth respondents to disburse the petitioner's share of amount from all the financial benefits including insurance amount having Policy No.1203004218P113494902 due to the petitioner's son late Johns within a stipulated time without insisting him to have a amicable settlement with the sixth respondent by considering the petitioner's representation dated 30.12.2020.

For Petitioner	:	Mr.S.R.Anbarasu
For Respondents	:	Mr.C.Karthik for R4 and R5



O R D E R

The relief sought for in the present Writ Petition is to direct the first to fifth respondents to disburse the share amount of the writ petitioner from all the financial benefits including insurance amount having Policy No.1203004218P113494902 due to the petitioner's son late Johns within a stipulated time, without insisting him to have a amicable settlement with the sixth respondent by considering the petitioner's representation dated 30.12.2020.

2. The petitioner states that his married son was working in Border Security Force Personnel and he died in road accident. The sixth respondent is the wife of the deceased Border Security Force Personal and she claimed all other service benefits. Therefore, the petitioner, who is the mother of the deceased Border Security Force Personnel, has now filed this Writ Petition claiming that the policy amount is to be settled in her favour.

3. The learned counsel appearing for the petitioner made a submission that the share of the mother is to be settled in her favour.

4. Insurance policy is a contract and such contractual obligations are to be adjudicated before the Competent Forum and certainly not before the High Court in a writ proceedings. The civil rights of the parties cannot be crystallized in the writ proceedings by conducting a trial nature adjudication. Therefore, the aggrieved persons have to approach the Insurance Ombudsman or the Competent Court of law for the purpose of establishing their rights to get their shares from the insurance policy or otherwise.

5. The learned counsel appearing for the petitioner made a submission that the petitioner is a poor lady, aged about 60 years and suffering, due to heart ailments. The High Court cannot take a decision on certain misplaced sympathy. The entertainability of the Writ Petition under Article 226 of the Constitution of India is to be considered and the Court cannot carry away with such sympathetical arguments or otherwise, which will lead to miscarriage of justice. When the petitioner is having efficacious remedy before the Competent Court and before the Ombudsman, there is no reason whatsoever to file a Writ Petition under Article 226 of the Constitution of India, more specifically, when the dispute relates to contractual obligations between the parties. Thus, the petitioner is at liberty to redress her grievances in the manner known to law.



6. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD-I)

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Sub Assistant Registrar(CS)

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