



W.P.No.33704 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.33704 of 2015
and M.P.No.1 of 2015

R.Sathish

.. Petitioner

VS

1.The Regional Manager/ Authorised Signatory,
National Insurance Company Limited,
Chennai Regional Office,
190, Anna Salai, Chennai – 6.

2.The Branch Manager,
National Insurance Company Limited,
Ambattur Branch, Vijaya Plaza,
C-32, II Floor, II Avenue,
Thirumangalam, Annanagar,
Chennai – 40.

3.The Inspector of Police,
Thermal Nagar Police Station,
Tuticorin.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorarified mandamus calling for the
records with respect of the impugned order passed by the 1st
respondent dated 27.02.2015 and quash the same, consequently
direct the 1st respondent herein to pay the Insurance Claim amount



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on the theft of petitioner's lorry bearing Registration No.TN 20 BE 3378 within a reasonable time.

For Petitioner : Mr.Mohan Raju
for Mr.R.Nalliyappan

For Respondents : Ms.S.Sowjanya
for Mr.D.Ravichandran
for R1, R2

Mr.Veda Bagath Singh
Special Government Pleader
for R3

ORDER

1. Heard Mr.Mohan Raju, learned counsel for the petitioner, Mr.Veda Bagath Singh, learned Special Government Pleader for R3 / Inspector of Police and Ms.S.Sowjanya, learned counsel for R1 & R2 / National Insurance Company Limited (in short 'Insurance Company').

2. The petitioner approached R3 by way of a complaint on 10.12.2013 in regard to the theft of lorry bearing registration TN 20 BE 3378 on 10.12.2013 and CSR No.61 was registered on 11.12.2013. Parallely, and since vehicle was insured by the Insurance Company under policy bearing No.500505311201002183, current at the relevant point in time, an e-mail was also issued on 11.12.2013 to the Insurance Company



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intimating them of the theft of the vehicle. The mail is dated 11.11.2013 and receipt of the same is not in dispute.

3. The police authorities have registered a complaint on the same date and have also issued CSR No.61 of 2013. After a detailed enquiry, the FIR has been registered only on 03.02.2014. A non-traceable certificate has been issued by the police on 07.02.2015.

4. The Insurance Company has however proceeded on the factually erroneous basis that there is a delay in lodging of FIR amounting to 59 days. This is the reason set out in the impugned order rejecting the claim of the petitioner. This is misconceived insofar as the CSR was registered by the petitioner before the police on 10.12.2013 but the FIR lodged by the police after enquiry, only on 03.02.2014.

5. The impugned order states as follows:-

"We refer your letter dated 18.02.2015 and your meeting with our Manager on 16.02.2015 after 14 ½ months of theft of your vehicle. As per condition of the policy; Condition No.1: In the case of theft or criminal act which may be the subject of a claim under this policy the insured shall give immediate notice to the police and co-operate with the company in



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securing the conviction of offender". There was a delay of 59 day in filing FIR and you have not completed any formalities required for a theft claim by sending Registered letter with acknowledgement card to the concerned RTO, submitting relevant papers like claim for RC copy, FIR copy, policy copy etc to appoint an investigator. The opportunity of tracing the vehicle is lost by the police due to delay.

We regret to inform you that our inability to admit and settle your claim due to abnormal delay in filing FIR and none of the claim procedure completed by you in time."

6. Both reasoning as set out in the impugned order, being delay in filing of FIR as well as delay in submission of claim before the Insurance Company, are factually incorrect, since an e-mail has also been sent to the Insurance Company by the petitioner on 11.12.2013. The impugned order is thus set aside. The claim of the petitioner shall be processed in accordance with the terms of the agreement holding the same to be a valid claim, and settled within a period of eight weeks from the date of receipt of a copy of this order.

7. In view of above, this writ petition is allowed. No costs. Connected miscellaneous petition is closed.

25.01.2023

Index:Yes
Neutral Citation:Yes
ssm



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To

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DR. ANITA SUMANTH,J.

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