



W.P.No.28412 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28412 of 2019

N.Perumal

... Petitioner

Vs.

1.The Secretary,
Bar Council of Tamilnadu and Puducherry,
High Court Buildings,
Chennai – 104.

2.The National Insurance Co. Ltd.,
Divisional Office (Group Insurance),
Divisional Office No.III,
No.35, Gandhi Nagar,
1st Main Road, Adayar,
Chennai – 20.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in connection with rejection of the petitioner's claim dated 20.09.2018 and quash the same and consequently direct the second respondent to pay the petitioner's insurance claim.

For Petitioner : Mr.K.Thiruvengadam
For Respondents : Mr.M.R.Jothimani for R1
Ms.S.Radha Devi for R2



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records in connection with rejection of the petitioner's claim dated 20.09.2018 and quash the same and consequently direct the second respondent to pay the petitioner's insurance claim.

2.The case of the petitioner is that he is an Advocate practising at Uthangarai and also member of Bar Association of Uthangarai and also a member in the Group Insurance Scheme from 31.07.2014 to 30.07.2015. On 26.01.2015, he met with an accident and sustained multiple injuries and lost consciousness and after recovery from his injuries, he made representation to the respondent to take action on his claim petition, however, his claim was rejected. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner met with an accident on 26.01.2015 and lost his consciousness and took treatment for a long period, however, his claim petition was rejected on the ground of delay. Since the petitioner lost his consciousness and the other family members are illiterate and not



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able to understand the terms of the insurance, the petitioner made claim after recovery from the injuries. Hence, the impugned order is not sustainable one.

4.The learned counsel appearing for the second respondent submitted that as per the terms of the insurance, the petitioner has to make claim petition within 30 days from the date of accident, however, in the present case, the petitioner met with an accident during January 2015 and made claim petition only during November, 2015 beyond the period of 10 months and as per the policy, no claim made beyond the period of 30 days could be entertained.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. Admittedly, the petitioner is an Advocate practising at Uthangarai and also member of Bar Association of Uthangarai and also a member in the Group Insurance Scheme from 31.07.2014 to 30.07.2015. On 26.01.2015, he met with an accident and sustained multiple injuries and lost



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consciousness and was taking treatment continuously and due to his ailment, he was not able to make claim before the second respondent within 30 days from the date of accident. If the petitioner is in sound mind, he could be expected to make claim within 30 days from the date of accident, however, in the present case, the petitioner has lost his consciousness.

7.In view of the above, the impugned order dated 20.09.2018 is set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to evaluate the claim made by the petitioner and decide the matter based on the documents submitted by the petitioner and in accordance with the policy.

8.The writ petition is accordingly disposed of. No costs.

28.03.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No



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