BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**WP(MD)No.20894 of 2023**

Indra .. Petitioner

v.

1.The Regional Manager,
C/o.SBI, Manapparai Branch,
P.B.No.21, 7, Mac Donalds Road,
Cantonment,
Tiruchirappalli – 620 001.

2.The Chief Manager,
State Bank of India,
Manapparai Branch,
166, Dindigul Road Manapparai,
Manapparai – 625 306. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the second respondent to pay the overpaid EMI in Loan A/c.No.38352848302 on the file of the second respondent Bank on the basis of the petitioner's representation dated 08.07.2022, within a stipulated time limit.

For Petitioner : Mr.M.Sridharan

For Respondents : Mr.N.Dilipkumar,
Standing Counsel

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**ORDER**

The petitioner's husband, one A.K.Panneer Selvam, availed a loan from the respondents Bank for a sum of Rs.3,67,500/- on 23.02.2008 and has also taken SBI Life Insurance for a sum of Rs.3,50,000/- on 18.03.2008. The petitioner's husband died on 23.10.2011 due to cardiac arrest. The petitioner claims that she is an illiterate and she has approached the respondents and has informed about the death of her husband. The respondents have directed her to continue to pay the EMI amount to avoid any consequences and accordingly, the petitioner has also continued to pay the EMI.

2.The petitioner claims that the respondents have now closed the loan account by claiming the insurance to the tune of Rs.2,74,893/- on 07.05.2019 and credited a sum of Rs.42,806/- in her savings account. Her grievance is that without claiming the insurance amount immediately after the demise of her husband in the year 2011, she was made to pay the EMI till 2019 and therefore, she made a request for repayment of the overpaid EMI amount. With a grievance that the said application has not been considered, the petitioner has moved this writ petition.

3.Learned Counsel for the petitioner submitted that the petitioner is an illiterate. Though the petitioner has informed about the death of her husband, it has not been properly considered by the respondents and apprehending any action from the Bank, the petitioner promptly paid the EMI dues. In the year 2019, she came to know about the insurance availed by her husband and has approached the respondents. Only thereafter, the respondents took action and claimed the insurance amount. However, in the meantime, from 2011 to 2019, the petitioner has paid the EMI amount, which, she is not supposed to pay in view of the insurance availed by her husband. Therefore, he prayed for appropriate orders.

4.Learned Standing Counsel appearing for the respondents Bank narrated the dates & events. On 23.02.2008, the petitioner's husband availed loan to the tune of Rs.3,50,000/- and on 18.03.2008, he availed the insurance policy. On 23.10.2011, the petitioner's husband died, however, the petitioner neither informed the Bank about the same nor filed any claim petition before the Insurance Company, instead, she continued to pay the EMI from October, 2011 to March, 2019. In the month of March, 2019, the petitioner approached the Bank for Top-up loan and only at that point of time, she identified her husband's policy and thereafter, the Bank has made a claim for the insurance amount. The Insurance Company settled the outstanding as on 07.05.2019, ie., Rs.2,32,087/- and the balance insurance claim amount of Rs.42,806/- was credited to the petitioner's savings account.

5.He further submitted that with the very same plea, the petitioner has made a complaint before the Ombudsman of the Reserve Bank of India and the Ombudsman, by order dated 02.08.2023, closed the said complaint holding that there is no deficiency on the part of the service rendered by the Bank. Therefore, the remedy available to the petitioner is either before the consumer forum or before the civil forum.

6.This Court paid it's anxious consideration to the rival submissions made on either side and perused the available materials.

7.The petitioner's husband has availed loan from the respondents Bank in the year 2008. In the same year, her husband has also joined in an insurance policy of the respondents Bank. The petitioner's husband died in the year 2011. As per the insurance policy, in the event of the death of the insured, the outstanding loan amount ought to have been adjusted with the insurance amount.

8.In this case, the petitioner claims that immediately after the demise of her husband, she informed the Bank. But there is no proof for the same. The respondents Bank claim that the petitioner informed the Bank along with the policy papers only in the year 2019. The fact remains that the petitioner has promptly paid the EMI from 2011 to 2019.

9.Considering the facts and circumstances of the case and the status of the petitioner, this Court dispose of this writ petition with a direction to the petitioner to submit a fresh representation along with required documents before the respondents within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the respondents shall consider the same sympathetically, within a further period of eight weeks therefrom.

There shall be no order as to costs.

**28.08.2023**

Index : Yes / No
NCC : Yes / No
Internet : Yes
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**B.PUGALENDHI, J.**

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