* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: August 22, 2023*

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\+ W.P.(C) 10163/2018 & CM APPL. 39609/2018

NATIONAL INSURANCE COMPANY LIMITED ..... Petitioner

Through: Mr. Manoj Ranjan Sinha and Mr. Deepak Sain, Advocates.

versus

SMT. MANJU DEVI AND ORS. ..... Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

1. The challenge in this Writ Petition is to two orders dated March 06, 2018 in O.A. 368/2016 and August 01, 2018 passed in R.A. 111/2018, whereby the Tribunal has allowed the Original Application and dismissed the Review Application filed by the petitioner company.

2. The claim of the respondent no. 1 in the Original Application was in respect of interest on Rs.5,00,000/- as paid in terms of policy, taken by the respondent No.3 for its employees. The respondent no.1's husband late Rishi Pal was working as a Fireman in Delhi Fire Service Department. He died in a road accident on May 11, 2009. The Delhi Fire Service Department has a group insurance policy operated by the petitioner herein i.e. National Insurance Company Limited. As per the said policy, insurance claim of Rs. 5

lacs is admissible in case of road accident. Respondent no.1's husband was a member of the said policy. The respondent no. 1 made an insurance claim in terms of the said policy. As she was not getting the due consideration from the petitioner as well as from Delhi Fire Service, she approached the Tribunal by filing O.A. 3552/2013, which was disposed of vide order dated July 31, 2014. The operative para read as under:

> *"3. In view of the stand taken in the counter reply filed on behalf of respondents, the OA is disposed of with direction to respondent no.2 to pursue the matter with respondent no.3 and ensure that final decision is taken in the matter within four weeks from the date of receipt of a copy of this order. If the grievance of the applicant still survives, she would be at liberty to approach the appropriate forum, in accordance with law."*

3. The petitioner in terms of the claim and the order of the Tribunal, paid Rs. 5 lacs to the respondent no. 1 on March 20, 2015. The claim of the petitioner in the second O.A. being O.A. 368/2016, wherein the impugned order has been passed, was primarily with regard to payment of interest on delayed release of the insurance amount.

4. The Tribunal vide paragraphs no. 5 & 6 of the judgment has stated as under:

> *"5. Under these circumstances, I am of the view that the applicant is entitled for receiving interest at a reasonable rate for delayed release of the insurance claim. Considering the fact that the applicant died on 11.05.2009 and at least 3 months are normally required to settle such a claim, 1am of the view that the applicant is entitled for receiving interest from 01.09.2009.*
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> *6. In the conspectus of discussions in the foregoing paragraphs, this O.A. is disposed of with a direction to the*

respondents to pay interest @ 8% per annum to the applicant on the amount of Rs. 5 lacs from 01.09.2009 to 20.03.2015. It is clarified that the interest is to be paid out of the fund, which is operated by respondent No.3 on behalf of respondent Nos. 1 &2. This shall be done within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs."

5. Mr. Sinha, learned counsel appearing for the petitioner has, at the outset, drawn our attention to the order dated May 10, 2019, passed by this Court, which reads as under:

> *"Issue notice to the respondents returnable on 17th September, 2019.*
>
> *In the meanwhile, the petitioner shall pay interest to the legal heirs of the deceased, as directed by the Central Administrative Tribunal vide order dated 6"^ March, 2018 in O.A.No.368/2016.*
>
> *This Court would only consider the question whether the petitioner is liable to recover the interest on account of the delay caused by the Department.*
>
> *List on 17th September, 2019."*

6. Mr. Sinha also states, in terms of the order of the Tribunal dated March 06, 2018, the petitioner has paid interest component also to the respondent no.1 of Rs. 2,22,137/- on May 17, 2019. His only submission is that the interest amount is not payable by the petitioner company. According to him, as per the terms of the policy, the factum of the accident was required to be informed within one month. According to him, neither the Delhi Fire Service nor the respondent No.1 informed the petitioner about the death of Rishi Pal within one month as stipulated in the policy. The petitioner was informed only after the order was passed by the Tribunal in the earlier round of litigation. He states, the claim was registered on December 16, 2014 and

the same was paid in January 2015 i.e. within one month. In other words, it is his plea, there was no delay on the part of the petitioner company to honour the claim. Infact, it is his submission, the delay being with the Delhi Fire Service, it is the Delhi Fire Service, which must discharge the liability of paying the interest on the amount of Rs. 5 lacs.

7. There is no appearance for the respondents.

8. In view of the order passed by this Court on May 10, 2019, the issue which needs to be decided is whether it is the petitioner or the Delhi Fire Service is liable to pay interest. Having seen the provision in the Insurance policy at page 28 of the paper book, which reads as under, it is clear that the delay, if any, has occurred because the petitioner was not informed about the accident within time stipulated and having been informed after the order of the Tribunal on July 31, 2014, the liability shall be on the Delhi Fire Service.

> *"Upon the happening of any event which may give rise to a claim under this Policy, written notice with all particulars must be given to the Company immediately. In case of death written notice also for the death must, unless reasonable cause is shown be given before internment/cremation and in any case, with one calendar month after the death and in the event of loss of sight or amputation of limbs, written notice thereof must also be given within one calendar month after such loss of sight or amputation."*

9. We agree with the submission made by Mr. Sinha, that the petitioner company having paid the amount of interest to the respondent no. 1, it shall be at liberty to claim the said amount from the respondent no. 3. If such a claim is made within two months from today, the same shall be honoured by respondent No.3 within one month thereafter.

10. This order has been passed in the facts of this case.

11. The writ petition is disposed of.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

August 22, 2023/*akc*