IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4500 of 2022

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Atiya Subhani W/o Late Dilashad Alam, Resident of Mohalla- Babooganj, Ward No.- 2, Kali Badi, P.S.- Khagaria, District- Khagaria, At present- Resident of Mohalla- Musafirganj, Ward No.- 9, P.S.- Buxar (Town), District- Buxar.

... ... Petitioner/s

Versus

1. The Life Insurance of India through its Zonal Manager, L.I.C. of India East Central Zonal Office, Jeevan Deep Building, Exhibition Road, Patna.
2. The Senior Branch Manager, L.I.C. Patna Division 1, Jeevan Deep Building, 1st Floor Exhibition Road, Patna.
3. The Claim Officer, L.I.C. Patna Division, Jeevan Deep Building 1st Floor, Exhibition Road, Patna.
4. Aftabl Jamal, S/o Late Jamalluddin Sahil, Resident of Mohalla - Chand Colony Phulwarisharif, P.O.- Phulwarisharif, P.S.- Phulwarisharif, District - Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar Gupta, Adv.
For LIC	:	Mr. Umesh Pd. Singh, Sr. Adv.
	:	Mr. Prashant Kumar, Adv.
For Respondent No. 4	:	Mr. Pratik Kumar, Adv.
For the State	:	Mr. Abhimanyu Vatsa, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT
Date : 01-05-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

> *"That this writ application is being filed on behalf of the above named petitioner for giving direction to Respondent authority to death claim and other benefit regarding Policy No. 829535897 of Late Dilshad Alam to the petitioner."*

3. It is the case of the petitioner that her husband namely, Dilshad Alam had purchased the insurance policy with the respondent-Life Insurance Corporation of India vide Policy No. 829535897 on 28.12.2020. That the marriage of the petitioner took place with the said Dilshad Alam on 03.04.2021. The husband of the petitioner died due to Covid-19 pandemic on 20.04.2021, thereafter, the petitioner submitted an application to the respondent herein on 07.02.2022 stating that she is the legal heir of her late husband and requesting them to pay the death benefits under the policy. That when the respondent-Corporation did not pay the insurance amounts to the petitioner, she has made inquiries and found that her husband at the time of taking the insurance policy has nominated his brother-in-law namely, Aftabl Jalam the respondent No. 4 (who is none other than the brother of the petitioner herein). When the petitioner came to know that the respondent-Corporation is trying to pay the insurance amount to the brother-in-law of her husband respondent No. 4 herein, she has approached this Hon'ble Court seeking a direction to the respondents to settle her insurance claim.

4. Learned counsel appearing on behalf of the Life Insurance Corporation of India has stated that as per the judgement of the Hon'ble Supreme Court in the case of ***Sarbati Devi And***

Another. Vs. Usha Devi reported in ***1984 1 SCC 424*** irrespective of the fact as to who has been nominated at the time of taking the policy, in case the policy holder dies, the death benefits have to distribute as per the law of succession. Further, learned counsel has stated that at the behest of the Court, the counsel himself has tried to mediate between the parties and convince them to come to an amicable settlement but the settlement could not be reached. That the respondent No. 4 (who is none other than the brother of the petitioner herein) and the nominee in the insurance policy is not agreeing for paying half of the insurance amount to the petitioner. Learned counsel has stated that the Corporation will abide by the directions of this Court and pay the policy amounts to whomever this Court directs.

5. Learned counsel appearing on behalf of the respondent No. 4 has vehemently opposed the prayer sought for by the petitioner and stated that the respondent No. 4 has been nominated by the deceased policyholder and, therefore, it is only the nominee who is entitled for the death benefits under the policy. Further, learned counsel has stated that in case the petitioner has any claim over the policy, her remedy is to approach the Civil Court and not this Court under the Article 226 of the Constitution of India. Learned counsel has also relied on the judgement of the

Hon'ble Supreme Court in the case of ***Sarbati Devi And Another. Vs. Usha Devi*** reported in ***1984 1 SCC 424*** which has also been relied on by the counsel for the Corporation.

6. This Court vide order dated 22.04.2022 has directed the Corporation to maintain *status quo* with regard to the payment and, therefore, no amounts have been disbursed till date.

7. It is pertinent to extract the relevant portion of the judgement of the Hon'ble Supreme Court in the case of ***Sarbati Devi And Another. Vs. Usha Devi*** reported in ***1984 1 SCC 424*** which reads as under;

> *"A mere nomination made under Section 39 of the Act does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorized to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. Under Section 39 of the policy-holder continues to hold interest in the policy during his lifetime and the nominee acquires no sort of interest in the policy during the lifetime of the policy-holder. Therefore, on the death of the policy-holder the amount payable under the policy becomes part of his estate which is governed by the law of succession applicable to him. Such succession may be testamentary or intestate. Section 39 does not operated as a third kind of succession which can be styled as a 'statutory testament'. A nominee cannot be treated as being*

> *equivalent to an heir or legatee. The amount received under the policy therefore, can be claimed by the heirs of the assured in accordance with the law of succession governing them."*

8. A reading of the above judgement of the Hon'ble Supreme Court reveals that irrespective of the fact as to who is shown as the nominee in the insurance policy, in case the policy holder dies, the insurance amount has to be divided as per the law of succession. In case there is any dispute with regard to the division of shares of the parties as per their personal law, their remedy is to approach the competent Civil Court.

9. Admittedly, in this present case, the petitioner being the wife is entitled to a share in the insurance policy therefore, this Court is of the opinion that the ends of justice would be met if a direction is given to the Corporation to disburse 25% of the policy amount to the petitioner herein and retain the 75% of the policy amount with them to be distributed among the legal heirs, as per their personal law. If the parties are so advised, they are free to approach the Civil Court seeking division of the policy amount as per their personal law and submit the same to the respondent-Corporation for distributing the amount in accordance with the judgement and decree granted by the Civil Court. Till such time, the parties obtain any decree from the Civil Court, the Corporation is directed to keep the balance 75% of the policy amount in a fixed

deposit. If any settlement is reached between the parties or they obtain any decree from the Civil Court, the Corporation shall distribute the policy amount along with the interest in accordance with the settlement of decree.

10. With the above direction, the present writ petition stands disposed of to the extent indicated.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.05.2024.
Transmission Date	N/A