IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5187 of 2023

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Kalavati Kunwar @ Kalavati Devi Wife of Late Kamala Singh Resident of Village- Rampur, P.S.- Bhabhua, District- Kaimur ... Petitioner

Versus

1. The Life Insurance Corporation of India through its Executive Director, L.I.C., Yogekshema Building, Jeevan Building, Jeevan Bima Marg, Mumbai.
2. The Executive Director, L.I.C., Yogekshema Building, Jeevan Building, Jeevan Bima Marg, Mumbai.
3. The Regional Manager, Life Insurance Corporation of India, Patna.
4. The Branch Manager, Life Insurance Corporation of India, Branch Office, Mohania, Kaimur.
5. Pushpa Kumari, Wife of Manoj Kumar Singh, Son of Bechan Singh Resident of Village- Turki, P.S.- Chenari, District- Rohtas ... Respondents

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Appearance :

For the Petitioner : Mr.Jay Prakash Singh, Adv.

For the Respondents : Mr.Rakesh Kumar

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

20 09-09-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

(i) For issuance of writ in the nature of mandamus directing the respondents to pay the ½ share of maturity amount of LIC Policy No. (i) 824539858, (ii) 826787530, (iii) 826537825 and (iv) 519272759 after death of her son Sunil Kumar Singh.

(ii) For issuance of an appropriate writ/ order/ direction for granting any other relief/ reliefs for which the petitioner is found entitled to.

3. It is a case of the petitioner that she is the mother of

deceased policy holder by the name of Sunil Kumar. That the son of the petitioner died on 16.12.2021. That during the life time of her son he had taken four policies on various dates as given below :

Sl. No.	Policy Number	Date of Commencement	Date of Maturity
1.	519272759	29.09.2012	09/2031
2.	826537825	28.01.2020	01/2055
3.	826539858	28.04.2020	04/2045
4.	826783530	26.02.2021	02/2056

4. That Respondent No. 5 herein is her daughter-in-law and as the name of the Respondent No. 5 is mentioned as a nominee in the policy the official respondents are not paying the matured amounts under the policy to the petitioner. Further it is stated that the Respondent No. 5 has performed her second marriage and living separately therefore the petitioner being the only legal heir of her deceased son is entitled for all the amounts due under the policies. During the pendency of the present Writ Petition the petitioner and the Respondent No. 5 have compromised and Respondent No. 5 has filed an affidavit to the effect that she has no claim over the policies and that the matured amounts may be given to the petitioner.

5. In the counter affidavit filed by the Respondent-Corporation it is stated that the Policy No. 826539858 and 826783530 have been repudiated vide order dated 17.01.2023 and

in so far as other two policies, i.e., 519272759 and 826537825, are concerned till date no claim has been made and the paper work is pending. That as and when the paper work is completed, the authorities are willing to pay the amount after due verification. Learned counsel for the respondents has stated that the order of repudiation has not been challenged by the Respondent No. 5 and the only remedy available to the petitioner is to approach the Insurance Ombudsman and not this Court under Article 226 of the Constitution of India. Further it s that the Policies Nos. 826539858 and 826783530 were repudiated on the ground that the policy holder while taking the above two policies has not disclosed about the earlier policies taken by him. Had the policy holder disclosed about the earlier policies already taken by him, he could had been subject to various medical tests and the premium amount payable could had being different. However, without disclosing about the earlier policies the deceased son of the petitioner had taken the Policies No. 826539858 and 826783530 and therefore the two policies were rightly repudiated. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

6. Admittedly, in the present case the son of the petitioner has been murdered and to that effect a FIR has already been lodged. Though there is a dispute with regard to the manner in which the son of the petitioner has died, the same is not germane

for the purpose of deciding this case.

7. A perusal of the application made by the deceased son of the petitioner while taking the Policy in the month of February, 2021, which is relateable to Policy No. 826783530 reveals that the petitioner had disclosed about the earlier two policies taken by him, i.e., Policies No. 519272759 and 826537825. Therefore, the contention of the respondents that the deceased son of the petitioner had not disclosed about the earlier two policies taken by him is not factually correct, on this ground alone the impugned order (Annexure R/1) is liable to set aside. Further it is to be noted that the said letter (Annexure R/1) is not addressed to the petitioner herein, but, to Respondent No. 5, therefore, there was no occasion for the petitioner to challenge the same. Though, the official respondents have taken a stand that the petitioner has an alternative and efficacious remedy of approaching the Insurance Ombudsman challenging the order of repudiation, it is to be noted that the availability of the alternative remedy is not an absolute bar for exercising the jurisdiction by this Court under Article 226 of the Constitution of India, more particularly when there is violation of principles of natural justice and equity. The order of repudiation passed by the authorities on the face of it is factually incorrect and contrary to the principles of natural justice and equity. The same is passed without putting the petitioner on notice and seeking any

clarification (see the judgment passed in **Whirlpool Corporation Vrs. Registrar of Trade Marks, Mumbai**, reported in **(1998) 8 SCC, 1** and **Puneet Kumar vs Union of India & Ors**. reported in **2023 SCC OnLine SC 214:2023(2) BLJ 278 (SC) & (2023) 3 SCC 629 : 2023 SCC OnLine SC 116)**.

8. Having regard to the above mentioned facts and circumstances, the impugned order dated 17.01.2023 (Annexure R/1) is set aside. The matter is remanded back to the authority concerned for passing necessary orders afresh duly taking into consideration the application made by the petitioner while taking the Policy No. 826783530 in the month of February, 2021. The petitioner shall be put to notice and given an opportunity of hearing before passing any orders. In case the claim of the petitioner is found to be genuine the maturity amounts under the said Policy shall be paid to the petitioner. The authority while passing any order shall also duly take into consideration the fact that the entire idea of disclosure of the earlier Policies taken by the applicant is only to subject that policy holder to some medical examinations for the purpose of finding out if the policy holder is suffering from any ailment which would disable him from taking another Policy or increase the premium amount. If any fatal ailment is revealed at the time of medical examination, the Corporation can refuse to cover the applicant so as to prevent any

loss to the Corporation in case the policy holder dies soon after policy is taken. However, in this case it is to be noted that the death of the petitioner is not due to any medical ailment, but, he was a victim of a crime, therefore, the authorities cannot take umbrage under the above clause and deny the benefit to the petitioner. That in so far as other two policies, i.e., 519272759 and 826537825 are concerned, the petitioner is directed to submit the necessary papers/claims and if the same are found to be in order the maturity amount under the said policy shall be paid to the petitioner. As the Respondent No. 5 has given up her claim by filing an affidavit in the Court, the Respondent-Corporation shall ignore the nomination made by the policy holder and all amounts due under the policy shall be paid to the petitioner only.

9. The entire exercise shall be completed by the respondents as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, the writ petition is allowed to the extent indicated.

(A. Abhishek Reddy , J)

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