**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.11918 of 2023**

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Suman Devi, aged about 38 years, Female, Wife of Late Rakesh Kumar Mahto @ Rakesh Mahto, Resident of Village- Ghataro, P.S.- Kartahan, District- Vaishali.

... ... Petitioner/s

Versus

1. The Insurance Ombudsman, State of Bihar and Jharkhand, Second Floor, Lalit Bhawan, Bailey Road, Patna.
2. Sri Ram Life Insurance Company Limited, through its Chief Managing Director, 5th Floor Plot No. 31-32, Ramky Selenium, Financial, District-Gachibowli, Hyderabad.
3. Branch Manager, Sri Ram Life Insurance Company Limited, Muzaffarpur.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Rajeev Ranjan, Advocate. |
| For the Respondent/s | : | Ms. Archana Singh, Advocate. |

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**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**

ORAL ORDER

7 30-09-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

> *"(i) For quashing the Award No. IO/PAT/A/LI/0233/2022-23 dated 29.03.2023 (Ann-6) pronounced by Respondent No. 1, Insurance Ombudsman, Patna by which he has dismissed the death claim of the petitioner's husband, namely late Rakesh Kumar Mahto, without giving reasonable opportunity/hearing to the complaint/petitioner or her representative.*
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> *(ii) Also directing and commanding the respondent to quash the order dated 11.11.2019 (Ann-4) passed by Authorized Signatory, Shri Ram Life Insurance Company Limited, Hyderabad,*

*whereby and whereunder he has rejected the claim of petitioner stating therein that since the insurance policy was obtained by Life Assured (LA) by playing fraud on the company, hence no benefit are payable under the policy.*

*(iii) And for directing and commanding the respondent to pay the death claim of her husband bearing policy No. NP011901176963 of Shriram Life's Shri Raksha Plan along with 18% interest and also its consequential benefits to the petitioner, in the fact and circumstance of the case."*

3. Learned counsel appearing on behalf of the petitioner has stated that the husband of the petitioner had taken an insurance policy bearing policy No. NP011901176963 with the Respondent-Sri Ram Life Insurance Company Limited. After the death of the husband of the petitioner, the petitioner had made a claim but the same was rejected on the ground that a fraud has being committed on the Company, that as on the date of taking the insurance policy the husband had already died. Therefore, the insurance Company was of the opinion that the claim made by the petitioner was a fraudulent one and rejected the claim. That Aggrieved by the action of the Respondent Nos. 2 & 3, the petitioner has preferred a case before the Respondent No. 1 i.e. Insurance Ombudsman, States of Bihar & Jharkhand. That the Insurance Ombudsman without going into the merits of

the case has dismissed the case made by the petitioner vide complaint Ref. No. PAT-L-043-2223-0651 dated 29.03.2023. Aggrieved by the award of the Insurance Ombudsman, the petitioner has preferred the present writ petition.

4. Learned counsel for the petitioner has stated that the Respondent No. 1 without going into the merits of the case has dismissed the case on the sole ground that the petitioner was not present on the date of hearing. Learned counsel has stated that though the representative of the petitioner was present before the authority concerned and requested for time, the authority without considering the request and without giving her further time has passed the impugned order dismissing the case. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the Respondent No. 1 for considering the case of the petitioner in accordance with law duly giving an opportunity of hearing to the petitioner.

5. Though notices has been served on the Respondent Nos. 2 & 3, there is no representation on their behalf. Therefore, this Court vide order dated 26.09.2024 has forfeited the right of the Respondent Nos. 2 & 3 to file its counter affidavit. Even today, when the matter is called out, there is no representation

on behalf of the Respondent Nos. 2 & 3.

6. Admittedly, as seen from the order, the Respondent No. 1 has not gone into the merits of the case and passed the order on the ground that the petitioner was not present on the date of hearing. Though a representation was made on behalf of the petitioner for adjourning the case, the authority did not do so. In the order, it is stated that the authority tried to contact the petitioner through Video Conference and also on cell phone but could not succeed. When a representation has been made on behalf of the petitioner stating that she is unable to appear on that particular date of hearing, the authority ought to have adjourned the case to another day and granted an opportunity to the petitioner to participate in the proceedings. Further, it is to be noted that the authority on the very first date of hearing has closed the matter without going into the merits of the case or hearing the petitioner and it is not a case where number of adjournments have been sought by the petitioner.

7. Having regard to the above facts and circumstances, the impugned order dated 29.03.2023 passed by the Insurance Ombudsman, State of Bihar & Jharkhand i.e. Respondnet No. 1 is set aside and the matter remanded back to the Respondent No. 1 for considering the case filed by the

petitioner on merits as expeditiously as possible preferably within a period of eight weeks from the date of the receipt of the copy of this order. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the party.

7. With the above directions, the present writ petition stands disposed of.

**(A. Abhishek Reddy, J)**

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