

DL-20
16.12.2024
Court No.26
(AD)

**FMA 456 of 2021
With
IA No.: CAN 1 of 2022**

**Dipa Chatterjee
Vs.**

The Life Insurance Corporation of India & Ors.

*Mr. Subhendu Banerjee, Advocate
... for the appellant.*

*Mr. D.K. Kundu, Advocate
Mr. Arjun Basu, Advocate
... for the respondent nos.1, 2 and 4.*

1. Appeal is directed against an order dated January 6, 2020 passed in W.P. No.23597(W) of 2019.
2. Appeal is at the behest of the writ petitioner.
3. Appellant assailed an order passed by the Insurance Ombudsman in a writ petition.
4. Mother of the appellant was covered by policies of life insurance. On death, policies were repudiated by the insurance company on the ground that, the insure provided wrong date of birth.
5. Appellant contends that, in view of the amended Section 45 of the Insurance Laws (Amendment) Act, 2015, with the lapse of a period of three years in respect of a life insurance, the policy cannot be questioned on the ground of material irregularities in the particulars furnished.
6. Insurance Company is represented.
7. At the basic minimum, Writ Court would be required to find out the actual date of birth of the

person insured.

8. There exists disputes as to the date of birth of the insured. Such disputes ideally should be decided after affording the concerned parties an opportunity to lead evidence both oral and documentary on such aspect.
9. Learned Single Judge exercised discretion in not entertaining the writ petition on the ground that, the Ombudsman took into consideration all the factual aspects and the relevant materials available on record. We are not minded to interfere with the discretion exercised by the learned Single Judge in an intra court appeal.
10. In such circumstances, we find no merit in the present appeal.
11. **FMA 456 of 2021** and **IA No.: CAN 1 of 2022** are **dismissed** without any order as to costs.
12. This order will not prevent the appellant before us in exploring other methods of adjudication before the appropriate forum, if so permitted in law.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)