IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4375 of 2020

S.Anees ...Petitioner

vs.

1.The Regional Manager,
The Oriental Insurance Company Ltd.
Mumbai Regional Office-II,
7th Floor, 7, J.Tata Road,
Church Gate, Mumbai – 400 020.

2.The Senior Divisional Manager,
The Oriental Insurance Company Ltd.,
Mumbai City Divisional Office, No.8,
Maker Bhavan No.1, 5th Floor,
New Marines Line,
Mumbai – 400 020.

3.The Branch Manager,
The Oriental Insurance Company Ltd.,
2nd Floor, S.V.Complex,
No.179, Eswaran Koil Street,
Pondicherry. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 and 3 herein and to rehear the petitioner and receive necessary documents if any and consequently direct the respondents 2 and 3 herein to disburse the death benefit of the petitioner's Late mother Mrs.S.Uma(Folio No.CHE 1676, G.P.A. Policy No.121700/48/2011/11015, Claim No.12001148/2012/030151).

For Petitioners : Mr.M.Venkadeshan

For R1 & R2 : Mr.K.Vinod
For R3 : No appearance

O R D E R

The Writ of Mandamus has been instituted to direct the respondents 2 and 3 to rehear the petitioner and receive necessary documents, if any and direct the respondents to disburse the death benefits of the petitioner's late mother Mrs.S.Uma.

2.It is not in dispute that the mother of the Writ Petitioner Smt.S.Uma was a member of the group insurance and therefore, eligible for the sum insured on her behalf under the group insurance scheme. The said Uma died on 10.12.2011 and the petitioner submitted an application to settle the insurance amount. The authorities found that there are some discrepancies in the policy and as per the policy, the name of the nominee has been stated as S.Hylene.

3.The learned counsel for the petitioner states that the nominee is a daughter of the member of the group insurance and it has been erroneously stated as son. In this regard, the petitioner approached the civil Court and obtained a succession certificate on 26.10.2015. Even on production of such succession certificate, the respondents have not paid the insurance amount. Thus, the present writ petition is filed.

4.The learned counsel for the petitioner mainly states that the sum assured was not disbursed to the petitioner mainly on the ground that they have closed the account on account of delay. There was a mistake occurred in the policy certificate, which was subsequently rectified by the petitioners and therefore, the respondents ought to have scrutinized the subsequent documents produced by the petitioner so as to establish that he is the legal heir of the deceased member.

5.The learned counsel for the respondent raised an objection by stating that the insurance company go by the policy certificate and as per the policy certificate, the name of the petitioner has been wrongly stated. More so, the petitioner has not sought for rectification of the mistake in the policy certificate and therefore, the company has closed the account and now they cannot return the sum assured as per the policy.

6.This Court is of the considered opinion that there was a mistake in entering the name of the nominee in the policy certificate. The member, who is the mother of the petitioner was not aware of such mistakes took place in the policy certificate and therefore, the said mistake occurred is to be verified by conducting an enquiry and by scrutinizing the documents which were subsequently produced by the petitioner.

7.The insurance claim cannot be rejected since there was a mistake occurred in the policy certificate regarding entry of nominee, and therefore, the company has to reexamine the documents and if the petitioner is the legal heir of the deceased member, then the insurance amount assured must be paid. Hyper-technical reasons cannot be a ground to deny insurance amount to the beneficiary. It is a welfare policy and the insurance company is expected to ascertain the correctness of the legal heir certificate and accordingly, settle the sum as per the procedure contemplated. In the present case, the petitioner pleads that it is a mistake occurred and in rectification they have produced the succession certificate and all other documents, which were not reexamined by the respondents and therefore, a direction is to be issued.

8.In view of the facts and circumstances, the respondents are directed to reexamine the entire claim of the petitioner with reference to the documents already produced and the documents to be produced by the petitioner. The petitioner is at liberty to produce the all the documents afresh to the respondents for the purpose of reexamination and to settle the insurance coverage amount by following the procedure. The petitioner being poor and belongs to the fisherman community, the insurance company is expected to assist the petitioner in all respects, so as to honor the insurance claim in accordance with law. The claim cannot be rejected merely on such hyper-technical grounds. The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9.The Writ Petition is accordingly stands disposed of. No costs.

03.01.2024

Tsg

Index : Yes/No
Internet:Yes/No
Speaking Order/Non-speaking Order

S.M.SUBRAMANIAM ,J.

Tsg

W.P.No.4375 of 2020

03.01.2024