



W.P. No.7501 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P. No.7501 of 2021

Periyannan

... Petitioner

VS.

1. The Chief Manager,
Indian Bank,
Corporate Office,
Chennai-600 001.

2. The Deputy Manager,
United India Insurance Company Limited,
Tiruchengode,
Namakkal District.

3. Mrs.Chitra,
The Branch Manager,
Indian Bank,
Kalipatty Branch,
Namakkal District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus directing the 1st respondent to take necessary action against the 3rd respondent in pursuance of petitioner's representation dated 02.01.2021.



W.P. No.7501 of 2021

For Petitioner : Mr.M.Subash

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Standing Counsel

ORDER

This writ petition has been filed for direction directing the first respondent to take necessary action as against the third respondent on the representation submitted by the petitioner dated 02.01.2021 thereby seeking appropriate action as against the third respondent for non payment of compensation for the death of the petitioner's cattle.

2. The petitioner had insured his cattle with the 2nd respondent vide cattle insurance policy No.1718004719P104214948 from the period of 01.07.2019 to 30.06.2020. The petitioner had paid a sum of Rs.3000/- and obtained insurance policy through the 3rd respondent. The 3rd respondent is being a agent of the 2nd respondent receive a sum of Rs.3000/- as per insurance policy. Thereafter, on 30.06.2020 the insured cattle died due to illness. Immediately, it was informed to the third respondent about the death of the cattle which was insured through the 3rd respondent with the second respondent. Due to Covid-19 Pandemic circumstances, though the petitioner requested the concerned veterinary



W.P. No.7501 of 2021

hospital to conduct postmortem in order to claim the insurance amount, postmortem could not be conducted due to Covid-19 pandemic circumstances, no veterinarian was come forward to conduct postmortem on the said cattle. On the same day the cattle was buried with the help of other family members. The petitioner approached the 3rd respondent to claim insurance amount, though the petitioner repeatedly requested to pay the insured amount for the death of his cattle, his claim was not considered and rejected by its communication dated 10.08.2020 on the ground that the petitioner failed to submit ear tag and postmortem report with photos, cause of death and investigation report as per the policy condition No.6 and 8. Admittedly, the postmortem was not conducted due to Covid-19 since the cattle died due to severe infection same symptom like Covid-19. Therefore, no doctor was willing to conduct the postmortem. Hence, the petitioner had buried the cattle with ear tag. In fact on the date of death of cattle, the petitioner duly informed about the death of cattle to the 2nd and 3rd respondents.

3. The learned counsel for the 3rd respondent submitted that the 3rd respondent is only acted as an facilitator for her customers and insurance company namely the second respondent. The 3rd respondent



had received a sum of Rs.3000/- towards premium and remitted the said amount with the second respondent towards insurance policy for the cattle owned by the petitioner. The 3rd respondent being a facilitator, received the claim from the petitioner and forwarded it to the second respondent. However, the second respondent was unable to entertain the claim made by the petitioner on the ground that the petitioner failed to submit the ear tag, postmortem report, cause of death and investigation report as per policy condition No.6 and 8. It is also relevant to extract the policy condition No.6 and 8 :

"Condition No.6 "Ear tag should be surrendered at the time of claim. Otherwise, no claim is recoverable under this policy."

Condition No.8 "On the death of any animal hereby insured the insured shall give immediate notice thereof to the company (at the office which has issued the policy; and shall give the company an opportunity of inspecting carcass until at least the expiration of twenty four hours after such notice shall have been received by the company). The insured shall also within fourteen days submit such veterinary certificates and satisfactory proof and to furnish to the company such information accompanied by the death identity and value of the animal as the company may require. The ear tag should be surrendered along with the above certificate."



W.P. No.7501 of 2021

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4. However, the 3rd respondent admitted that the death of the cattle was immediately informed on 30.06.2020 at about 09.30p.m to the third respondent. In turn, the third respondent instructed the petitioner to conduct postmortem and submit claim before the second respondent. However, the petitioner was unable to conduct postmortem due to Covid-19. It is also note that the cattle died due to same Covid-19 symptoms. Therefore, no doctors were willing to touch the cattle and conduct postmortem. Hence, the cattle was buried without removing the ear tag. Therefore, the cattle which is owned by the petitioner was duly insured with the 2nd respondent and the cattle died on 30.06.2020 due to serious illness that too with symptoms of Covid-19. Therefore, the petitioner entitled for the claim under the policy of the deceased cattle.

5. Though, notice was served to the second respondent, name is also printed in the cause list, but no one appeared before this Court either by person or by pleader.



W.P. No.7501 of 2021

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6. In view of the above, the second respondent is directed to settle the claim amount to the petitioner for the death of his cattle within a period of two weeks from the date of receipt of copy of this order. The 3rd respondent is directed to facilitate the claim of the petitioner for the death of his cattle.

7. With the above direction, this writ petition is allowed. No costs.

11.06.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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W.P. No.7501 of 2021

To

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W.P. No.7501 of 2021

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W.P. No.7501 of 2021

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