



WEB COPY



W.P.No.18386 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.18386 of 2021

Dr. M.Suresh Kumar

Employed at Miami International Organ Transplant Hospital,
Florida, U.S.A

Represented by his Power Agent,
R.Manickavel

... Petitioner

Vs

1. New India Assurance Company Limited,
Represented by its Chairman-cum-Managing Director,
87, M G Road, Fort Mumbai,
Maharashtra – 400 001.
2. New India Assurance Company Limited-Claims Hub,
Represented by its Manager,
Macmillan House, II Floors,
No.21, Patullos Road, Chennai – 600 002.
3. New India Assurance Company Limited,
Chennai Region Office,
Represented by its Manager,
Dewa Towers Building,
770A, 2nd and 3rd Floor,
Anna Salai, Chennai – 600 002.



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4. The Chairman,

Insurance Regulatory and Development Authority (IRDA),

Sy No.115/1, Financial District,

Nanakramguda, Hyderabad – 500 032.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Letter/Order Ref:Claims Hub/Chennai/3155/20-21 dated 12.08.2021 passed by the second respondent repudiating the petitioner's insurance claim No.71000131200350003928 (as per the impugned order) and claim dated 05.12.2020 payable and covered under the Vehicle Insurance Policy No.71090631200300003406 (insured with comprehensive Enhanced covers) and quash the same and by further directing the second respondent to pay the insurance claim payable under the Claim No.71000131200350003928 dated 05.12.2020 to the petitioner in accordance with law.

For Petitioner : Mr.M.Ramalingam

For Respondents : Mr.S.R.Sundar (for R1 to R3)

Mr.M.B.Raghavan
for M/s.M.B.Gopalan Associates (for R4)



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ORDER

This Writ Petition has been filed as against the dismissal of the claim made by the petitioner for his vehicle, which was surrounded in water.

2. The reason for rejection involves disputed questions of fact. Therefore, it cannot be considered in this Writ Petition, that too under Article 226 of the Constitution of India. That apart, there is an alternative remedy which is very much available to the petitioner, instead of filing this Writ Petition.

3. As per the Insurance Regulatory and Development Authority of India (IRDA), the grievance redressal procedures have to be followed when the claim was repudiated by the insurer. Accordingly, the petitioner ought to have approached the Insurance Ombudsman as against the repudiation of the insurance claimed. Therefore, it would be appropriate the issue direction to the petitioner to approach the Insurance Ombudsman as against the repudiation of his claim.



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4. Though the first to third respondents vehemently contended that the petitioner being the father of the original owner of the vehicle, has no proper power to adjudicate the issue on behalf of his son and admittedly, the petitioner is the father of the vehicle owner to insure the vehicle with the insurer. Therefore, there is absolutely no impediment for the petitioner to approach the Insurance Ombudsman on behalf of his son.

5. In view of the above, the petitioner is directed to approach the Insurance Ombudsman to make his claim before the respondents, as against the petitioner dated 12.08.2021 within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said claim, the Insurance Ombudsman, who is having jurisdiction in the District of Chennai, is directed to dispose of the claim of the petitioner on merits and in accordance with law, within a period of twelve weeks from the date of claim petition.

6. With the above directions, this Writ Petition is disposed of. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz.,



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29.08.2021, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. No costs.

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Index:Yes/No
Neutral Citation/Yes/No
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To

1. The Chairman-cum-Managing Director,
New India Assurance Company Limited,
87, M G Road, Fort Mumbai,
Maharashtra – 400 001.
2. The Manager,
New India Assurance Company Limited-Claims Hub,
Macmillan House, II Floors,
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3. The Manager,
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Dewa Towers Building,
770A, 2nd and 3rd Floor,
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4. The Chairman,
Insurance Regulatory and Development Authority (IRDA),

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G.K.ILANTHIRAIYAN, J.

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