IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.19875 of 2024
and
W.M.P. No.31185 of 2024

Geetha Challadurai .... Petitioner

Versus

1. The Insurance Ombudsman / Chennai,
Teynampet,
Chennai – 600 018.

2. The Manager,
HDFC ERGO General Insurance Co. Ltd.,
Branch Office,
Guindy Industrial Estate,
Chennai – 600 032.

3. The Manager,
HDFC Bank Ltd.,
759, ITC Centre,
Anna Salai,
Chennai – 600 002.

4. The General Manager,
Reserve Bank of India,
Chennai – 600 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the 2nd respondent consider the insurance claim and arrange to settle the claim amount in order to settle the Housing Loan obtained from the 3rd respondent HDFC Bank by the Petitioner's Husband.

For Petitioner : Mr.B.Saravana Kumar
For Respondents : No appearance

ORDER

This writ petition has been filed for Mandamus seeking for a direction to the 2nd respondent to consider the insurance claim and arrange to settle the claim amount in order to settle the Housing Loan obtained from the 3rd respondent HDFC Bank by the Petitioner's Husband.

2. It is stated in the affidavit that in the year 2018, petitioner's husband obtained housing loan to the tune of Rs.19,50,000/- from the 3rd respondent / HDFC Bank under Loan A/c. No.630559487. Further, as per the mandatory conditions prescribed for availing housing loan, the petitioner's husband took an insurance policy and paid premium amount of Rs.85,495/-. Suddenly, due to cardio respiratory arrest, the petitioner's husband died on 17.06.2021. Thereafter, the petitioner, being the wife of the deceased made claim before the 2nd respondent, who in turn repudiated the said claim, vide letter dated 25.11.2021. Subsequently, the petitioner filed complaint before the 1st respondent / Insurance Ombudsman with regard to the refusal of claim by the 2nd respondent. Thereafter, on 15.04.2024, the 1st respondent also confirmed the said refusal. In such circumstances, the petitioner has approached this Court with the aforesaid

prayer.

3. Learned counsel for the petitioner submitted that the petitioner's husband obtained housing loan from the 3rd respondent as well as took insurance policy for the said loan. He further submitted that as per the said insurance policy terms, when the borrower of the loan died, the balance loan amount would be adjusted with the insurance claim amount. More so, due to sudden death of petitioner's husband, their family was put to great loss as he was the sole breadwinner, whom they lost. In such a pathetic scenario, without considering the request of the petitioner, the 2nd respondent vide communication dated 25.11.2021 repudiated the claim of the insurance amount and on the contrary, insisting the petitioner to pay the balance housing loan amount with interest is illegal and non-est in law.

4. In support of his contention, he relied upon an order of a Single Judge of this Court, dated ***29.04.2024 in W.P. No.26233 of 2022 in the case of N. Lakshmi vs. The Insurance Regulatory and Development Authority of India***, wherein the repudiation of claim order passed by the 2nd respondent therein / ICICI was quashed. On the aforesaid score, he prays for issuance of appropriate directions to the 2nd respondent, in this case as well.

5. Heard learned counsel for the petitioner and perused the materials

placed before it. Despite service of notice and the names of the respondents being printed in the cause list, there is no representation on the side of the respondents. Considering the urgency in this matter, the same is taken up for hearing.

6. From the aforesaid submissions, it is clear that the petitioner's husband had availed housing loan and taken insurance policy for the said loan. Apparently, it reveals that the petitioner's husband paid 2/3rd of the housing loan amount as well as paid premium for the said insurance policy. From the above, it is clear that there was a contract between the petitioner's husband and the 2nd and 3rd respondents. A perusal of records reveals that due to Cardio Respiratory arrest, the petitioner's husband died on 17.06.2021. Thereafter the petitioner's claim for insurance with regard to housing loan availed by her husband / insured was repudiated by the 2nd respondent. This Court perused the insurance policy, wherein the details of illness covered under the subject policy are mentioned. The same are as follows :-

(1) Cancer (2) End Stage Renal Failure (3) Multiple Sclerosis (4) Major Organ Transplant (5) Heart Valve Replacement (6) Coronary Artery Bypass Graft (7) Stroke (8) Paralysis (9) Myocardial infaraction.

7. It is further noted from the communication of the 2nd respondent, dated 16.04.2022 that the insured (petitioner's husband) died due to post

covid sequelae pulmonary embolism (right cerebrovascular accident complication of covid) diabetes and the said ailments were not covered either under critical illness or under the list of illness stated in the said insurance policy. Since the ailments were not covered under the insurance policy, the 2nd respondent refused to pay the insured amount. After refusal of the claim made by the petitioner, she addressed her grievance before the 1st respondent / Forum. Later, the 1st respondent also conducted enquiry and arrived at a conclusion that the repudiation of the claim was tenable as the death of the insured was not due to critical illness covered under the policy. Considering all, this Court is not inclined to invoke Article 226 of the Constitution of India, as any positive direction would result in going beyond the agreement of contract entered between the parties.

8. For the aforesaid reasons, the writ petition deserves to be dismissed and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law.

26.09.2024

Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

M.DHANDAPANI, J.

vsi2

To
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