



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-01-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

WP No.17604 of 2020

R.Sasikala Devi

.. Petitioner

-VS-

1.The AAO/Assistant Secretary,
O/o.Insurance OMBUDSMAN,
Fathima Akhtar Court,
4th Floor, No.453 (Old 342),
Anna Salai,
Teynampet,
Chennai-600 018.

2.The SBI Life Insurance Company Ltd.,
MV Road and Western Express Highway Junction,
Andheri (East),
Mumbai-400 069.

3.The Branch Manager,
SBI Life Insurance Company Ltd.,
2nd Floor, LMR Shopping Arcade,
No.82/1, Salem Road,
Namakkal,
Namakkal District.

.. Respondents



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Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his Ref:CHN-L-041-2021-0139, dated 18.09.2020 and quash the same and consequently directing the respondents to disburse the petitioner's husband's S.Ramesh insurance amount to the tune of Rs.18,40,000/- together with 12% interest along with Rs.10,00,000/- as compensation to the petitioner.

For Petitioner	:	Mr.C.Prakasam
For Respondent-1	:	Mr.M.B.Raghavan for M/s.M.B.Gopalan Associates.
For Respondents-2 and 3:		Mr.Kuberan for M/s.Rank Associates

ORDER

The order passed by the first respondent-Insurance OMBUDSMAN, Chennai dated 18.09.2020, is sought to be quashed in the present writ proceedings.



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2. The husband of the writ petitioner late Mr.S.Ramesh insured in the second respondent-SBI Life Insurance in Policy No.1W466306604. The deceased Mr.S.Ramesh was regularly paying the premium amount to the tune of Rs.19,882/- per month from the month of October 2017 till January 2020. In February 2020, the deceased Mr.S.Ramesh suffered ill-health and immobilised. Thereafter, the husband of the writ petitioner could not perform his day-to-day works and died on 15.03.2020.

3. The Insurance Policy for Life Insurance was made to the tune of Rs.18,40,000/-. The deceased Mr.S.Ramesh was paying the premium amount punctually without committing any default from the month of October 2017 till January 2020.

4. The learned counsel appearing on behalf of the respondents 2 and 3-Insurance Company has submitted that the insured committed default in payment of premium amount due on 09.02.2020 and the subsequent premium amount was also not paid on 09.03.2020. The petitioner is not entitled for the insured amount. As per the terms and



conditions of the contract, the policy lapses and thus there is no infirmity in respect of the order passed by the first respondent-Insurance OMBUDSMAN, Chennai.

5. Admittedly, the insured husband of the writ petitioner has not paid the premium amount due respectively on 09.02.2020 and 09.03.2020. However, the affidavit filed by the writ petitioner in support of the present writ petition would show that the husband of the writ petitioner fell ill and was hospitalised for more than two months and died in the hospital itself on 15.03.2020. When the family itself was in distressed condition and the insured was hospitalised and was taking treatment for more than two months and subsequently died in the hospital on 15.03.2020, one cannot expect that the husband of the writ petitioner will be promptly paying the February and March 2020 premium due amounts. Though the Insurance Company has strictly comply with the terms and conditions of the contract, this Court has to exercise its powers of discretion in such circumstances to mitigate the circumstances aroused on account of death of the insured person.



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6. The fact regarding hospitalisation of the insured person was not disputed by the second respondent-Insurance Company. The affidavit filed in support of the present writ petition would reveal that the insured was hospitalised for more than two months and died in the hospital itself. The petitioner, who is the wife of the insured, cannot be expected to pay the February and March 2020 premium due amounts. Under those circumstances, this Court is of an opinion that the non-payment of premium dues by the husband of the writ petitioner respectively on 09.02.2020 and 09.03.2020, cannot be construed as willful or intentional one. The non-payment of premium dues by the husband of the writ petitioner respectively on 09.02.2020 and 09.03.2020 were on account of extraordinary circumstances, wherein the insured fell ill and admitted in the hospital and died after taking treatment in the hospital for more than two months.

7. Considering the facts and circumstances and the mitigating factors placed before this Court, the petitioner is entitled for the relief on the ground of equity and more-so, there was no wilful or intentional default in



non-payment of premium dues for the months of February and March 2020
by the deceased insured person.

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8. In view of the facts and circumstances, the impugned order passed by the first respondent in proceedings Ref:CHN-L-041-2021-0139, dated 18.09.2020, is quashed and the respondents 2 and 3 are directed to settle the insured sum as per the policy in favour of the writ petitioner, within a period of four weeks from the date of receipt of a copy of this order.

9. With the above directions, the present writ petition stands allowed. However, there shall be no order as to costs.

08-01-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

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S.M.SUBRAMANIAM, J.

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