BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.22611 of 2018

J.Arockiyaselvi ... Petitioner

/Vs./

1.The Divisional Manager,
National Insurance Co., Ltd.,
D.o.III, 1st Main Road,
Gandhi Nagar,
Adayar, Chennai.

2.The Secretary,
State Council of Tamilnadu & Pondicherry Bar Council,
High Court Campus, Chennai.
(R2 is impleaded vide Court order
dated 19.03.2024) ... Respondents

PRAYER**:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent, dated 07.06.2018 and quash the same as illegal and arbitrary and in consequence thereof direct the respondent to settle the insurance amount due to the petitioner for the death of her husband Jeyapaul with 12% interest till the disbursal of the same.

For Petitioner : Mr.P.Ganapathi Subramanian

For R1 : Mr.S.Srinivasa Raghavan
Standing Counsel

For R2 : Mr.K.R.Laxman
Standing Counsel

**ORDER**

This writ petition has been filed challenging the order passed by the first respondent, thereby, rejected the claim made by the petitioner for her husband on the ground that the claim was made beyond 30 days.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The petitioner's husband was an Advocate and he subscribe to group insurance through the second respondent with the first respondent. While being so, when her husband travelled in his Car to attend the Court, he met with an accident due to rash and negligent driving of his driver. In the impact, he sustained grievous injury and died. On a complaint, FIR has been registered in Cr.No.453 of 2015 for the offences

under Sections 279, 337 and 304(A) of IPC. After completion of investigation, it was taken cognizance in C.C.No.9 of 2016, on the file of the learned Judicial Magistrate, Manaparai. Since the petitioner's husband was the subscriber in the group insurance, the petitioner had submitted a claim petition before the first respondent. On receipt of the same, the first respondent by an order dated 07.06.2018 rejected the claim petition on the ground that no claim to be entertained if intimation is beyond 30 days. Therefore, only on the ground of delay, the claim of the petitioner was rejected.

4. By an abandoned caution, this Court impleaded the second respondent as suo motu. On verification of the records shows that the petitioner's husband duly subscribed under group insurance with the first respondent by paying a sum of Rs.650/- on 07.07.2015 that was valid from 27.07.2015. Therefore, the petitioner is entitled for claim on demise of her husband under the group insurance scheme with the first respondent. However, the petitioner made a claim before the first respondent only on 12.02.2018. There was a delay in filing the claim petition. Since the petitioner is being a widow and due to sudden demise

of her husband, the petitioner could not make her claim in time. That apart, the petitioner had no knowledge about the group insurance subscribed by her husband with the first respondent through the second respondent. Therefore, the delay has occurred only due to valuable reasons and not due to other reasons.

5. The first respondent filed a counter and making the submissions. The counter affidavit revealed that admittedly the petitioner's husband was covered under the policy bearing No.500300/42/14/8200000099 with the first respondent and he was enrolled under Enrollment No.5531 with the first respondent. As per the terms and conditions of the policy, no claim will be entertained if intimation of death is made beyond 30 days. Therefore, the claim submitted by the petitioner become time barred and hence, rejected the same.

6. Unfortunately, the second respondent failed to inform the policy, which was taken by the petitioner's husband, to the petitioner or the first respondent. Therefore, the delay was occurred while filing the claim petition. The reason is valid. Therefore, the first respondent ought not to

have rejected the claim petition on its threshold that too, on the ground of delay. It is not the case of the first respondent that the petitioner's husband did not subscribe with the group insurance with the first respondent.

7. In view of the above, this Court finds infirmity in the order passed by the first respondent, dated 07.06.2018 and it cannot be sustained and liable to be quashed.

8. Accordingly, the order of the first respondent dated 07.06.2018 is quashed and the writ petition is allowed. The first respondent is directed to proceed the claim petition made by the petitioner and disburse amount, which is covered under the policy, to the petitioner with interest at the rate of 6% p.a., from the date of claim petition till the date of disbursement of the amount. No costs. Consequently, connected miscellaneous petitions are closed.

**03.12.2024**

Index : Yes / No
Internet : Yes/No
NCC : Yes / No
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To

1.The Divisional Manager,
National Insurance Co., Ltd.,
D.o.III, 1st Main Road,
Gandhi Nagar,
Adayar,
Chennai.

2.The Secretary,
State Council of Tamilnadu & Pondicherry
Bar Council,
High Court Campus,
Chennai.

**G.K.ILANTHIRAIYAN, J.**

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Order made in
W.P.(MD)No.22611 of 2018

Dated:
03.12.2024