



W.P.(MD)No.24405 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24405 of 2024
and W.M.P(MD).No.20727 of 2024

T.Premalatha

... Petitioner

Vs.

- 1.The Chief Regional Manager,
Head Officer, New India Assurance Bldg.,
87, Mahatma Gandhi Road, Fort,
Mumbai 400 001.
- 2.The Branch Manager,
The New India Assurance Co.LTD.,
Child Claims Hub 739003,
Pillars gate, Opp.Anna Stadium,
Balamore Road, Nagercoil 629 001.
- 3.The District Collector,
Kanyakumari District,
Collectorate at Nagercoil.
- 4.The Superintendent of Police,
Kanyakumari District,
at Nagercoil.
- 5.The Assistant Director,
Department of Geology and Mining,
Kanyakumari District,
At Nagercoil.



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6.The Regional Manager,
National Highways Authority of India,
Madurai Region,
3rd Floor, Vijay Krishna Plaza,
No.1, Lake Area, Melur Main Road,
Mattuthavani, Madurai 625 007.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent for the claim No. 73080031240398000001 and the rejection order dated 27.05.2024 and quash the same as devoid of merits and consequently direct the respondents 1 and 2 to pay the policy claim of Rs.15 lakhs and also pay a compensation of Rs.1,00,00,000/-(Rupees One Crore only) by the respondents 3 to 6 for their dereliction of duty within a period stipulated by this Court.

For Petitioner : Mr.Ananth C Rajesh

For Respondents : Mr.C.Karthik (for R1 & R2)
Mr.D.Gandhiraj (for R3 & R5)
Special Government Pleader
Mr.P.Karthick (for R6)
Mr.M.Vaikkam Karunanithi (for R4)
Government Advocate (Crl.side)

ORDER

This writ petition has been filed challenging the order passed by the second respondent rejecting the personal accident claim of the petitioner.



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2. Heard both sides. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that on 06.03.2024 when her husband was riding in a motor cycle bearing registration No.TN 75 AY 8930, the lorry bearing registration No.TN 69 AR 2499 smuggling the sand came in a rash and negligent manner and hit the motor cycle from behind. As a result, the petitioner's husband died on the spot, who is the only breadwinner of the petitioner's family. It is the contention of the petitioner that her husband's vehicle was insured with the second respondent, which is valid from 27.09.2023 to 26.09.2024 for full cover. When the petitioner has filed an application claiming personal accident benefit, the same has been rejected vide impugned order stating that her husband did not have valid driving license. Aggrieved by the same, the petitioner is before this Court.

4. On the side of the respondents, it is stated that to claim the personal accident benefit, the policy holder should possess the driving license. However, the petitioner's husband did not possess the driving license at the relevant time. Therefore, the claim of the petitioner has been rejected.



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5. At the outset, this Court is of the view that this writ petition is not maintainable. Whether the petitioner's husband had valid driving license or not, is disputed fact, which has to be established in the manner known to law. Further, to claim a compensation for accident, the proper way is to file an claim petition before the tribunal as against the offending vehicle.

6. With the above observation, this Writ Petition is disposed of. It is for the petitioner to file an appropriate application before the claim tribunal or to file a consumer complaint as against the rejection order. No costs. Consequently, connected Miscellaneous Petition is closed.

18.10.2024

Index : Yes / No

NCC : Yes / No

Rmk

To

1.The District Collector,
Kanyakumari District,
Collectorate at Nagercoil.

2.The Superintendent of Police,
Kanyakumari District,
at Nagercoil.



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3.The Assistant Director,
Department of Geology and Mining,
Kanyakumari District,
At Nagercoil.



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N.SATHISH KUMAR, J.

Rmk

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