Neutral Citation: 2024:PHHC:063407

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-14049-2016
Date of decision: 07.05.2024

ANITA TYAGI ......Petitioner

VERSUS

STATE OF HARYANA & OTHERS ....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: - Mr. Parmod Parmar, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Arvind Seth, Advocate
for respondents No. 2 to 8.

Mr. Rajneesh Malhotra, Advocate
for respondent No.9-Insurance Company.

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VINOD S. BHARDWAJ, J. (Oral)

1. The petitioner had approached this Court for seeking issuance of directions to the respondents to release the Insurance Claim of Rs. 5 lac of her deceased husband i.e. Parveen Kumar, ALM alongwith interest.

2. During the pendency of the present writ petition, the amount in question was released in favour of the petitioner but there was a delay in release of the said amount. On 20.11.2019, the following order was passed by this Court:-

1. Managing Director of the Uttar Haryana Bijli Vitran Nigam Limited-respondent No.2 shall remain present in the Court on the next date of hearing with the original record of the insurance claim of the petitioner following the death of her husband who was an employee of the Nigam.

2. Late Parveen Kumar- husband of the petitioner died on 24.09.2012. The Nigam sent the Claim Form to respondent No.9-National Insurance Company Limited, on 01.02.2013. On 08.10.2013 the Insurance Company remitted the money into the accounts of the Nigam. On 10.10.2013, it was credited into their accounts for onward payment to the petitioner. The Insurance Company admits that there was a clerical error/accidental slip in the typing the last three digits of the 11 digit NEFT number. The mistake was corrected in the letter dated 07.04.2015 and subsequent letters, notwithstanding deposit already made into Nigam account. The Insurance Company has produced the document to confirm the transaction of 8th and 10th October, 2013, Annexures R2 and R4 appended with the written statement filed by the Insurance company. Today, it is argued by the Nigam that no money has ever been deposited by the National Insurance Company-respondent No.9. It has also not been explained as to what the Nigam did from 8.10.2013 till 2015 and thereafter.

3. The writ petition was filed in the year 2016 and the payment has still not been made to the petitioner even when lying in the accounts of the Nigam. Implicit trust must be placed on banker's evidence of money transfer from one account to the other.

4. Mr. Dhandha, appearing for the Nigam refers to the document which is at annexure P6 with the petition *but the same has not been filed in the reply of the Nigam, from where it is argued that the insurance claim amount in respect of late Parveen Kumar, as shown in the details provided by the insurer, does not match with the Nigam's*

Bank account. Says that the Insurance Company was requested to provide the UTR number to the Nigam to get the same clarified from their bank. The letter written by the Accounts Officer/CAC for CAO, UHBVNL, Panchkula, warned the Insurance Company that the entire responsibility of delay in payment to the claimant shall rest with the Insurer Company. Mr.Dhanda argues in defence that the Nigam has been repeatedly sending letters and reminders to the Insurance Company blaming the insurance company. Little does he realize that the insurance company had already notified the Nigam on 07.04.2015, the correct UTR number. Thereafter, insurance company wrote a detailed letter (Annex P-6) providing the information again that amounts to the credit of four persons, including in late Parveen Kumar's case has been remitted and Rs.5 lakhs has been transferred on 08.10.2013 along with the bank transaction details i.e. No.SBI-NH-13283309399 dated 10.10.2013. In short, money stands transferred on 10.10.2013 but it has not been paid to the petitioner till date. If the last 3 digits of the UTR number were incorrect, instead of shooting letters to the insurance company aimlessly, the Nigam should have acted promptly in seeking the correct number to enable bank transfer of the amount to the credit of the petitioner. Nothing of this kind was done. No such record has been produced on file or shown at the time of hearing.

5. This order has been passed in detail to help the Managing Director of the Nigam know where the case stands for him to meet it and justify the inordinate delay *and non-payment till date, on the next date of hearing. He would also be heard on why interest on Rs.5 lakhs should not be saddled on the Nigam and paid to the petitioner w.e.f. a fortnight after credit of the amount in the accounts of the Nigam on 10.10.2013 (i.e. from 24.10.2013 onwards till payment) giving a reasonable margin of 14 days to the Nigam for completion of office formalities. The Managing Director of the Nigam will hold inquiry and fix liability on its erring employees and recover the interest from them, in the likelihood of interest being ordered.*

6. As far as the National Insurance Company is concerned, it has placed on record unimpeachable evidence of payment of money through the bank transaction on 8/10.10.2013.

7. If the Nigam has anything substantial to say in rebuttal to this presumption of truth, the Managing Director may bring the evidence in support together with bank certificate of non-deposit as well as the original record of correspondence as also the record of those four persons mentioned in the letter placed on record and the date when payments were made to the rest of the four. The same be produced on the next date of hearing.

8. In case corrective action is taken meanwhile and payment made to the petitioner, he need not appear in court and then the Nigam's counsel will be heard on the quantum of interest to be charged for the delay in payment and costs of litigation in favour of the petitioner.

List the case on 02.12.2019.

3. The matter thereafter came up on various dates in order to ascertain as to whether the money against UTR carrying last digits of 000796 had been credited to the Account of the respondent-distribution

licensee or not, however, the matter remained pending and eventually on 21.02.2023, the following order was passed:-

> *"The controversy in question relates to the disbursement of insurance claim worth Rs.5,00,000/- to petitioner Anita Tyagi widow of Parveen Kumar. The counsel for respondent No.9-Insurance Company submits that the above said amount of Rs.5,00,000/- was credited to the account of Distribution Licensee vide NEFT No.20135000796 on 08.10.2013. However, on account of an error, the aforesaid NEFT number was mentioned as 20135000806 in the communication dated 10.10.2013 on the subject of fatal accident of late Shri Parveen Kumar son of Chatar Singh-deceased husband of petitioner Anita Tyagi. A communication was received by the respondent No.9-Insurance Company from the respondents-Distribution Licensee, as per which, a clarification was sought for on the ground that NEFT No.20135000806 mismatched with NEFT No.20135000796. It is thus evident that the respondents-Distribution Licensee itself acknowledged both the NEFT transactions in its account. However, the mismatch was in relation to the beneficiaries in the aforesaid transaction as reflected in the communication address by the respondent No.9 – Insurance Company. While submitting their response to the aforesaid letter, the respondent No.9-Insurance Company specifically clarified that the ECS number in relation to Parveen Kumar was 20135000796 and the transaction had taken place on 08.10.2013 for a sum of Rs.5,00,000/-. Thus, the error was acknowledged and a corrected detail of each transaction had been duly sent to the respondent-Distribution Licensee.*
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> *Counsel for the respondent No.9-Insurance Company thus contends that the Insurance Company had credited the amount in the account of the respondents-*

Distribution Licensee and that the subsequent disbursement thereof was the responsibility of the Distribution Licensee itself.

Per contra, counsel appearing on behalf of respondents-Distribution Licensee submits that there was an error in the transaction number and that the transaction number mentioned by the respondent No.9-Insurance Company against the name of Parveen Kumar as SBINH13283309399 dated 10.10.2013 infact pertained to a different employee and that as result of the aforesaid error on the part of the respondent No.9-Insurance Company, the respondents-Distribution Licensee transferred the aforesaid amount in favour of Kapil son of Shri Ranbir, who was not an employee of respondents-Distribution Licensee.

He thus contends that the remittance of the aforesaid amount in favour of Kapil son of Ranbir was occasioned as a result of miscommunication by the respondent No.9-Insurance Company. On a specific query, counsel for the respondents-Distribution Licensee submitted no credit against ECS No.20135000796 had been received by the respondents-Distribution Licensee.

Ex facie, the aforesaid submission does not inspire enough confidence, since in its initial communication sent on 01.04.2015, the respondents have themselves communicated about both the NEFT transactions. Hence, the aforesaid argument does not seem to germinate from the documents available on record.

A further query was raised as to how the transaction number reflecting against the column of Parveen Kumar would relate to Kapil son of Ranbir, to which, counsel for the respondents-Distribution Licensee answered that the aforesaid transaction number is assigned to the abovesaid employee and it is a Unique Number of the said employee. The said submission also *fails to convince this Court at this juncture as the transaction number which has been mentioned against the name of said employee is distinct and separate from the number of transaction mentioned against the name of Parveen Kumar since deceased. Moreover, in case the contention of the respondents-Distribution Licensee is to be accepted, the said person is claimed to be an employee of HVPNL. There was no occasion for the respondents-Distribution Licensee i.e. the UHBVNL to transfer any amount to the account of an employee of HVPNL.*

Counsel for the respondents-Distribution Licensee thus prays for some time to file an affidavit giving complete detail of the procedure followed and as to how the claim is settled and also as to whether the amount against ECS No.20135000796 had been credited to the account of the respondents-Distribution Licensee or not. The request is accepted.

As a last opportunity, the respondents No.2 to 8 are directed to file an application giving details of all such transactions and acknowledging as to whether the amount referred against the respective ECS numbers have been credited in their account or not.

The affidavit shall be filed within a period of four weeks from today by an officer of the respondents-Distribution Licensee not below the rank of Chief Accounts Officer. It is made clear that in case the abovesaid affidavit is not filed within the period stipulated above, the Chief Accounts Officer shall remain present in Court on the next date of hearing alongwith the entire record.

Adjourned to 11.04.2023.

4. In compliance thereto, an affidavit had been filed by the respondent-distribution licensee giving the details of the amount.

5. Learned counsel appearing on behalf of the respondent-distribution licensee contends that even though the amount had been credited to their account, however, it was wrongly transferred to the HVPNL instead of seeking a clarification and thereafter determining the actual beneficiary of the said amount.

6. The issue which presently survives is as to who shall bear the interest liability for delayed payment.

7. Counsel for the respondent Insurance Company, however, said that the amount in question had already been transferred by them on 08.10.2013 and by way of a clarification sought on 01.04.2015, intimation was sent on 07.04.2015 itself. He is, however, not in a situation to inform as to whether issuance of a Voucher is necessary for ascertaining the beneficiary in a particular transaction.

8. Counsel for the respondent-distribution licensee on the other hand submits that the Department has already initiated proceedings against the erring officials and the penalties have also been imposed, be that as it may, the claim insofar as it relates to the petitioner is only regards fastening of *inter se* liability amongst the Insurance Company as well as the distribution licensee.

9. Taking into consideration that the requisite details had not been furnished by the petitioner-Insurance Company and also the fact that the amount in any case was transferred by it to the Distribution licensee which did not choose to verify the details and sought the clarification only after a period of two years, I deem it appropriate that the interest liability ought to be borne *inter se* between the Insurance Company as well as the Distribution Licensee in the ratio of 20:80.

10. Accordingly, the petitioner is held entitled to interest @ 6% p.a. on the aforesaid amount w.e.f. the date of filing of the writ petition till its actual release. Let the interest amount be released within a period of two months of the receipt of certified copy of this order.

The writ petition is accordingly disposed of.

(VINOD S. BHARDWAJ)
JUDGE

MAY 07, 2024
Vishal Sharma

Whether speaking/reasoned	**:**	Yes/No
Whether Reportable	:	Yes/No