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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

| RESERVED ON 27.11.2024 | PRONOUNCED ON 06.01.2025 |
|---|---|

**CORAM:**

**THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**W.P.(MD)No.10567 of 2016**

1.T.Suganthi
2.T.Raghuram ... Petitioners

Vs

1.The Insurance Ombudsman,
Fathima Akhtar Court,
4th Floor, No.453, (Old No.312)
Anna Salai, Teynampet,
Chennai – 600 018.

2.The Deputy Manager,
Exide Life Insurance,
ING Vysia House, 5th Floor,
No.22, M.G.Road,
Bangalore – 560 001. ... Respondents

**PRAYER:-** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in award No.IO(CHN)/A/LI-0032/2015-16 dated 30.09.2015, on the file of the first respondent herein, and to quash the same and direct the second respondent to pay the petitioners a sum of Rs. 3,81,300/- under policy No.02743681 in the name of the insured



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K.R.Thiagarajan with appropriate rate of interest, within a time frame as may be fixed by this Court.

For Petitioner : M/s.P.Jessi Jeeva Priya

For Respondents: Mr.S.Srinivasa Raghavan for R2

**ORDER**

The Writ Petition had been filed challenging the award passed by the first respondent.

2. Heard Ms.Jessi Jeeva Priya, learned counsel appearing for the petitioner and Mr.S.Srinivasa Raghavan, learned counsel appearing for the second respondent.

3. The learned counsel appearing for the petitioner would submit that the husband of the first petitioner had taken a insurance cover for his life and that the first petitioner's husband died on 13.09.2013. The petitioner had requested the second respondent to make the payment of Rs.2,00,000/-, as assured under the said policy, but the second respondent repudiated the legitimate claim of the first petitioner. Against which the petitioner had



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preferred a complaint with the first respondent and that by award dated 30.09.2015, an ex-gratia payment of Rs.15,000/- was ordered in favour of the petitioner. She would submit that the same is contrary to the life insurance policy and therefore, the same is liable to be set aside, with the further direction to the second respondent to pay the petitioner a sum of Rs.3,81,300/- under the policy of Life Insurance that had been taken by the first petitioner's husband.

4. Countering her claim, the learned counsel appearing for the respondent would submit that the entire claim of the petitioner had been repudiated by the second respondent and what was directed to be paid by the first respondent was only ex-gratia payment and not the payment under Insurance police. When such repudiation had been made, the petitioner can only approach the appropriate Civil Court, challenging the repudiation, as this Court exercising under Article 226 of the Constitution of India cannot issue Writs of a claim, where the repudiation had taken place. He would also rely upon the judgment of the Hon'ble Apex Court in the case of ***Life Insurance Corpn., of India & Ors., vs. Asha Goel (Smt) & Anr.,*** reported ***(2001) 2 SCC 160,*** to support his contention that the petitioner cannot seek



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this Court to exercise power under Article 226 of Constitution of India for grant of relief. He had also relied upon a judgment of this Court in W.P.(MD).No.67 of 2014, dated 19.12.2022.

5. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

6. Admittedly, the claim of the petitioner had been repudiated by the second respondent. The Hon'ble Apex Court in a judgment reported in ***AIR 1966 SCC 1644,*** had held that an insurance claim is a contract between the insured and the insurer. The Hon'ble Apex Court in a judgment in the case of ***Life Insurance Corpn., of India & Ors., vs. Asha Goel (Smt) & Anr.,*** reported in ***(2001) 2 SCC 160***, had held that when a claim is repudiated raising serious dispute, then the same could be resolved only by way of Civil Suit and not in a Writ Petition under Article 226. The judgment of the learned Single Judge relied upon made in W.P.No.67 of 2014 was a judgment made by me, wherein I have also held that the only proper remedy available for the petitioner is to approach the appropriate forum, if so advised.



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7. In fine, the Writ Petition fails and it is dismissed. However, when the petitioner approaches the appropriate Civil Court, the period of pendency of the Writ Petition shall stand excluded while calculating the period of limitation in filing the said Suit. However, there shall be no order as to costs.

06.01.2025

Index: Yes/No
Neutral Citation:Yes/No
Pbn

To

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**K.KUMARESH BABU.,J.**

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*A Pre-delivery order made in*
W.P.(MD)No.10567 of 2016

**06.01.2025**



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