

Court No. - 19

Case :- WRIT - C No. - 19071 of 2020

Petitioner :- The Oriental Insurance Company Limited,
Muzaffarnagar

Respondent :- Smt. Sanjesh And 2 Others

Counsel for Petitioner :- Nishant Mehrotra

Counsel for Respondent :- C.S.C., Satya Deo Ojha

Hon'ble Saurabh Shyam Shamsbery, J.

1. This writ petition is filed by petitioner-The Oriental Insurance Company Limited (hereinafter referred to as "Insurance Company") challenging the impugned order dated 04.01.2020 passed by Permanent Lok Adalat, Muzaffarnagar, whereby the claim of Respondent-1, Smt. Sanjesh, was allowed and petitioner-Insurance Company was directed to pay Rs. 5 lacs to Respondent-1 under the "Mukhyamanti Kisan Evam Sarvhit Beema Yojna".

2. Sri Nishant Mehrotra, learned counsel appearing for petitioner-Insurance Company, has contended that claim on behalf of Respondent-1 was filed after a period of about three months and 15 days from the date of accident. The accident took place on 29.08.2017 and deceased succumbs to the injuries on 05.09.2017 whereas claim was filed on 20.12.2017. In support of above contention learned counsel for petitioner has relied on Clause (2) of the Policy which is part of agreement executed between Insurance Company and State, that, in the event of delay of more than one month in filing claim after expiry of Insurance, the Collector has power to condone the delay of further one month, therefore, the claim was time barred.

3. Sri S.D. Ojha, learned counsel appearing for Respondent-1, has opposed the above contention of learned counsel for petitioner. He relied on the finding of Permanent Lok Adalat

that claim was filed merely with a delay of 15 days and also relied on a judgment passed by Division Bench of this Court in **Gautam Yadav vs. State of U.P. and others, 2020(11) ADJ 321** wherein the Division Bench considered the period of limitation for the purpose of filing claim and it was held that, "*limitation provided under the said scheme is unreasonable and arbitrary and have substituted the said period by a period of three years*". Lastly he submitted that the writ petition is liable to be dismissed.

4. I have heard learned counsel for parties and perused the material available on record.

5. There is no dispute that insurance was valid upto 13.09.2017 and accident took place on 29.08.2017. The claim was filed on 20.12.2017, i.e., after a period of about more than three months. Policy itself provides condonation of delay upto two months even after the Policy came to an end. Therefore, in strict sense, the delay is just more than one month. There is no clause in the Policy which specifically bar the consideration of claim by Court concerned even beyond the period of two months. The decision passed in Gautam Yadav (supra) is stayed by the Apex Court in Special Leave Petition (Civil) No. 7647 of 2021 by order dated 12.08.2021, though the payment was made by the Insurance Company. Considering that delay in filing the claim petition is just above one month and Insurance Policy is a welfare policy and that though the question of law is pending before Supreme Court but claim was paid in that case, thus the short delay in filing the claim petition can be condoned. No other submission is made on behalf of the petitioner, therefore, the writ petition is accordingly dismissed.

Order Date :- 22.9.2021

AK