

W.P.No.29882 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2025

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CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Writ Petition No.29882 of 2023
and W.M.P.No.29491 of 2023

A. Devika

... Petitioner

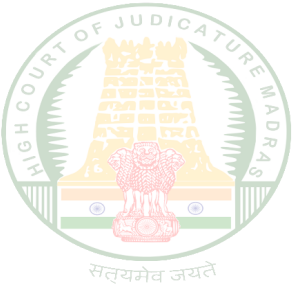
Vs.

1. The Senior Branch Manager,
Life Insurance Corporation of India (LIC),
Claims Department, CB06,
No.15, South India Co-Operative Building 2nd Floor,
Mount Road, Chennai - 600 002.

2. Dr.M.V.Nandhinee

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent dated 31.05.2023 and quash the same by restraining the first respondent herein or their men or agent from disposing the amount in policy No.707456621 in the name of the petitioner's son named Dr.Maheswar (died) dated 24.06.2016 to the second respondent pending disposal of criminal proceeding in C.No.1553/2022 before the XVIII Metropolitan Magistrate Court, Saidapet, and O.P.No.649 of 2022 pending before this Court.



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For Petitioner : Ms.Rita Chandrasekar
for Ms.R.Meenakshi

For Respondent : Mr.SP.Chockalingam
No.1

For Respondent
No.2 : Mr.S.Kasirajan

ORDER

The Writ Petition is filed for a Writ of Certiorarified Mandamus to call for the records of the first respondent dated 31.05.2023 and quash the same by restraining the first respondent herein or their men or agent from disbursing the amount in policy No.707456621 in the name of the petitioner's son named Dr.Maheswar (died) dated 24.06.2016 to the second respondent pending disposal of criminal proceeding in C.No.1553/2022 before the XVIII Metropolitan Magistrate Court, Saidapet, and O.P.No.649 of 2022 pending before this Court.

2. The case of the petitioner is that the petitioner is the mother of the policy holder. Merely because the policy holder had nominated the second respondent, the entire sum need not be paid to the second



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respondent. The petitioner is also a Class-I legal heir along with the

second respondent and the second respondent's daughter. Each of them

inherit 1/3rd share in the estate of the deceased. Further allegations are

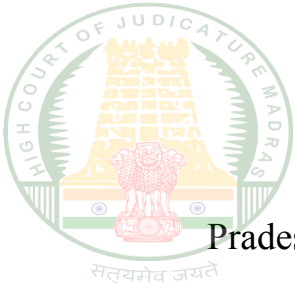
also made against the second respondent relating to the death of the

insurer.

3. When the matter came up for hearing, the existence of the policy and that the sum payable is admitted on behalf of the Life Insurance Corporation of India. However, the learned counsel would oppose the prayer by citing Section 39 of the Insurance Act, 1938. The learned counsel would submit that in this case, the wife has been nominated by the policy holder. The wife is the 'beneficiary nominee' and therefore, in view of the interpretation of the amended Section 39 of the Insurance Act, 1938, the wife shall receive the amount as the beneficiary nominee, which would mean that she would be entitled for the sum as her own.

4. The learned counsel would rely upon the judgment of this Court in ***K.R.Sakthi Murugeswari Vs. the Divisional Manager, Life Insurance Corporation of India and Others (MANU/TN/6034/2023)***.

The learned counsel would also rely upon the judgment of the Andhra



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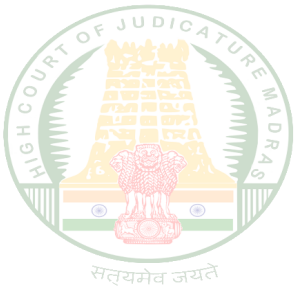
Pradesh High Court in *Mallela Manimala Vs. Mallela Lakshmi*

WEB COPY *Padmavathi and Others (MANU/AP/0427/2023)*.

5. The learned counsel appearing on behalf of the second respondent would submit that they have no objection in granting 1/3rd share of the amount due to the petitioner and 2/3rd share to be released to the second respondent, which would include the share of the minor daughter namely, Niralyaa.

6. I have considered the rival submissions made on behalf of the parties and perused the materials placed before this Court.

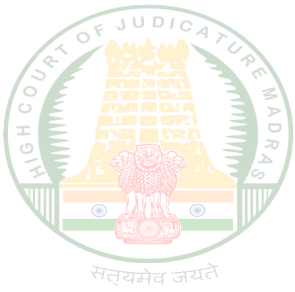
7. It is true that the Andhra Pradesh High Court, in a similar dispute, has interpreted Section 39 of the Insurance Act, in *Mallela Manimala* cited supra and after considering the distinction that is drawn with reference to the amount payable under Insurance Policies has held that the beneficiary nominee will be entitled for the amount as if her own and she does not receive the amount as in the case of a 'collecting nominee', who only receives in trust to be distributed for all the legal heirs.



8. It is also true that this Court also in ***K.R.Sakthi Murugeswari***,

decided an issue, where a brother was nominated to the policy and considered that he is not a 'beneficiary nominee' and he is only a 'collecting nominee' and in that context, considered Section 39 of the Insurance Act. It is relevant to extract paragraph No.12 of the said judgment.

"12. A beneficiary nominee means a nominee who is entitled to receive the entire sum assured under the insurance policy absolutely. On the other hand, a collector nominee means a nominee other than a beneficiary nominee It is true that on a plain reading of [Section 39\(7\)](#) of the Act, this distinction has been done away with. However, the legislature was careful enough to identify who all will fall within the category of nominees who in law will be considered as a beneficiary nominee. While categorizing those persons, the legislature was careful enough to bring in the parents, spouse, children, spouse and children or any of them. If the legislature had thought it fit to make everyone as a beneficiary nominee, there was no need for the legislature to specifically prescribe those persons who will fall within the ambit of [Section 39 \(7\)](#) of the Insurance Act, 1938. The fact that such a conscious description of persons, who fall under [Section 39\(7\)](#) of the Act has been prescribed by the legislature, shows that the legislature only wanted those persons who are closely related to the deceased policy holder alone to be treated as beneficiary nominees. In the instant case, the third respondent is admittedly the brother of the deceased policy holder and the third respondent cannot be brought

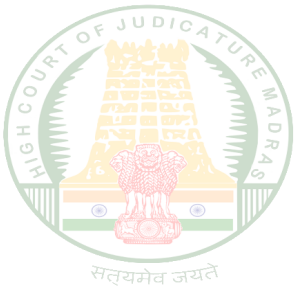


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within the scope of [Section 39\(7\)](#) of the Act. If the third respondent cannot be brought within the scope of [Section 39\(7\)](#) of the Act, it would only mean that he will be treated as a collector nominee. The Insurance Company cannot deal with the inter-se rights and the claim between the petitioner and the third respondent and the company has to entrust the sum assured to someone who has been nominated under the policy. By handing over the sum assured to the nominee, the job of the Insurance Company comes to an end. Thereafter, it is not the concern of the Insurance company to see as to who has the rightful claim over the sum assured and whether it actually goes into their hands as per the personal law governing the parties. **Therefore, the concept of nomination is only to ensure that the Insurance Company does not get into the area of dispute and the Company washes of its hands by handing over the sum assured to the nominee.** If the nominee falls within the scope of [Section 39\(7\)](#) of the Act, those persons described therein automatically takes it as a beneficiary nominee. If the person does not fall within the scope of [Section 39\(7\)](#) of the Act, he can only be treated as a collector nominee and he has to hold the money in trust subject to the claims made by the legal representatives who are entitled to a share in the sum assured. This position continues even after the amendment made to the [Insurance Act](#) in the year 2015. If every nominee is brought within the scope of [Section 39\(7\)](#) of the Act, this Court will be doing violence to the plain language used in the said provision and it will be certainly beyond the scope of the said provision."

(emphasis supplied)



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9. On a perusal of the aforesaid judgment, it can be only seen that

when there is a beneficiary nominee, who is validly nominated as per

Section 39(7), she will be entitled to make a claim for the entire amount.

It is also clear that the liability of the Insurance Company is to disburse

the amount to the beneficiary or collector nominee as the case may be. It

is also expressly held in the said-judgment, the Insurance Company does

not get into the area of dispute and the Company washes of its hands by

handing over the sum assured to the nominee. When the beneficiary

nominee, who is arrayed as the second respondent herself in this Court,

has categorically made a submission that 1/3rd of the amount shall be

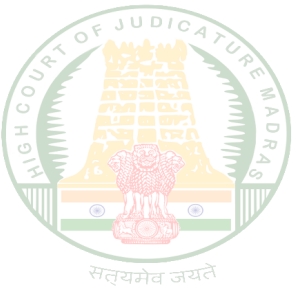
given to the petitioner and that she will receive the 2/3rd amount, there is

no question of pressing into service the law laid down with reference to

Section 39 of the Insurance Act, 1938, and therefore, this Writ Petition is

disposed of on the following terms:-

(1) In view of the agreement between the petitioner and the second respondent, the first respondent is directed to disburse the entire sum due under the policy No.707456621 as follows:-



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(a) The 1/3rd of the said amount shall be disbursed to the petitioner viz., A.Devika and 2/3rd of the said amount shall be disbursed to the second respondent, which would include the share of the minor daughter of the deceased policy holder, and;

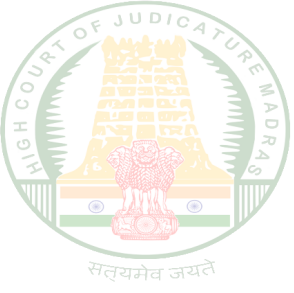
(b) Both the petitioner as well as the second respondent will be entitled to file the relevant documents that may be required by the first respondent-Corporation of India, within a period of two (2) weeks from the date of receipt of a web copy of the order and the entire claim shall be processed and the amount payable shall be disbursed, within a period of eight (8) weeks thereafter.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Neutral Citation : Yes



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D. BHARATHA CHAKRAVARTHY, J.

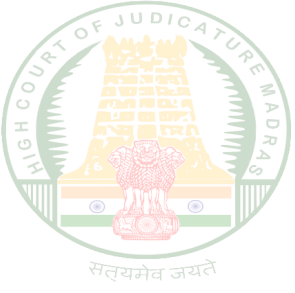
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To

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