

(2016) 04 PAT CK 0067

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7366 of 2013

Ajay Kumar Dubey

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 19-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 PLJR 399

Hon'ble Judges : Mr. Kishore Kumar Mandal, J.

Bench : Single Bench

Advocate : Mr. Hemendra Prasad Singh, Senior Advocate and Mr. Diwakar Prasad Karn, Advocate, for the Appellant; Mr. Madhuresh Prasad, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Kishore Kumar Mandal, J.(Oral)—The writ petition filed under Article 226 of the Constitution of India seeks a direction upon the respondents for payment of adequate compensation on account of death of his father and other family members and causing burn injury to other family members/tenant/neighbour in an incident that occurred on 01.09.2010.

2. Petitioner is the registered consumer of L.P.G. cylinder of the respondent Bharat Petroleum Corporation Ltd. (for short ?B.P.C.L.?). On 01.09.2010, in course of replacing a new Gas cylinder in the kitchen, a severe gas leakage occurred and spread like wild fire in which some of his family members and neighbours received serious burn injuries. The father, bhabhi, his tenant and a neighbour later died of burn injuries. His wife and one and a half year child, however, suffered only burn injuries. An F.I.R was lodged for the incident and the official of the B.P.C.L. were informed. The officials of the B.P.C.L. later visited the place of occurrence as well as the hospital where the victims were being treated. The incident relating to the bursting of the gas cylinders causing injury to the handlers thereof including the consumer or his family members is covered by

Public Liability Policy for L.P.G. obtained from the respondent Insurance Company by the B.P.C.L. Claim forms were provided to the petitioner which were submitted after filling them up. The respondent Insurance Company, on scrutiny of the papers and relevant facts, disbursed a sum of Rs. 2,10,481/- which was duly received by the petitioner on 16.06.2011. Dissatisfied with the quantum of the amount/compensation, the present writ petition is filed.

3. Heard Mr. Hemendra Prasad Singh, Senior Counsel, in support of the application and Mr. Madhuresh Prasad for the respondent B.P.C.L.

4. It has been submitted referring to the Insurance Policy that the petitioner was entitled to receive 10 lakhs for each death in the family. Reliance in this regard has been placed on Clause 8 of the Schedule to the Insurance Agreement/Policy. The Court is unable to find from the said clause/condition that in case of death, per person is entitled to Rs. 10 lakhs as the compensation.

5. Mr. Madhuresh Prasad, Counsel for the respondent B.P.C.L. has rightly pointed out that the claim of non-payment of adequate compensation as per the policy/agreement would require appreciation of diverse facts which cannot be examined/considered in the writ jurisdiction of the Court. At best, it may be a case of deficient service provided to the petitioner/consumer/customer by the Insurance Company. Any such claim can be raised before the Consumer Forum which can grant the relief if service provided by the respondent Insurance Company is held deficient. He also draws attention of the Court to the fact that the invocation of writ jurisdiction in the case should be denied as the petitioner on payment of compensation amount by the respondent Insurance Company received the same in full and final settlement of the claim against the Insurance Company. Further, the petitioner cannot raise any claim on behalf of the tenant or the neighbour. It is not a public interest litigation.

6. Upon hearing the rival contentions, I find substance in the objection of the respondent B.P.C.L. The Court is not inclined to invoke the discretionary and extraordinary writ jurisdiction of the Court to grant the relief leaving the petitioner or the aggrieved person(s) to approach the appropriate authority/forum for redressal of his/their grievance in accordance with law.

7. The writ application stands disposed of.