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(Judgment reserved on 17.12.2020)
(Judgment delivered on 25.01.2021)

Court No. - 48
Case :- WRIT - C No. - 21066 of 2020

Petitioner :- Oriental Insurance Co. Ltd.
Respondent :- Uma Devi And 2 Others
Counsel for Petitioner :- Parv Agarwal
Counsel for Respondent :- C.S.C.

Hon'ble Surya Prakash Kesarwani,J.
Hon'ble Dr. Yogendra Kumar Srivastava,J.

(Per: Surya Prakash Kesarwani, J.)

1. **The petitioner has challenged the binding order dated 20.12.2019 passed by the District Review Committee, Jhansi (respondent No.3) awarding insurance claim to the respondent No.1 under the "Mukhya Mantri Kisan Evam Sarvahit Bima Yojna" (in short "Kisan Bima Yojna").**

2. Heard Sri Parv Agarwal, learned counsel for the petitioner and Sri Manoj Kumar Kuswaha, learned standing counsel for the State-respondents.

Facts:-

3. Briefly stated facts of the present case are that the respondent No.1 is widow whose husband and head of the family/ bread earner, namely late Pramod Kori aged about 25 years died on 20.06.2019 in an accident caused by a vehicle "Tavera". He was a petty farmer who owned one sixth share out of total area of 0.882 hectare of agricultural land. He was covered under the aforesaid Kisan Bima Yojna. After the death of her husband, the respondent No.1 filed an insurance claim with the petitioner under the Kisan Bima Yojna. She obtained an income certificate dated 29.08.2019 issued by the competent authority/ Tehsildar, Garautha, Jhansi, certifying income from all sources to be Rs.2,500/- per month, i.e. Rs.30,000/- per annum. The petitioner rejected the claim of the respondent No.1 by order dated 26.11.2019, observing as under:

"मृतक/ परिवार की वार्षिक आय का प्रमाणपत्र मृत्यु के 45 दिन बाद का बना है।

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जो योजना में मान्य नहीं है।"

4. Aggrieved with the rejection of her claim by the petitioner, the respondent No.1 filed an application before the District Review Committee headed by the District Magistrate Jhansi who passed the impugned "binding order" dated 20.12.2019 under the Kisan Bima Yojna and awarded the claim of Rs.5 lacs to the respondent No.1.

5. In the impugned order, the respondent No.3 has recorded a findings of fact that the deceased owned agricultural land as aforementioned, deceased was head of the family/ bread earner and income of the family was Rs.30,000/- per annum. The Committee allowed the insurance claim and directed that in the event, the amount awarded is not paid by the petitioner – insurance company within one month, then penalty in terms of the Kisan Bima Yojna shall be paid to the respondent No.1 @ Rs.1,000/- per week. Aggrieved with this order, the petitioner insurance company has filed the present writ petition.

6. This Court heard at length, the learned counsels for the parties on 10.12.2020 and directed the petitioner to file a supplementary affidavit annexing therewith complete scheme "Mukhya Mantri Kisan Evam Sarvhit Bima Yojna" and a copy of contract of insurance of the petitioner with the State Government. In compliance to the aforesaid order, the petitioner has filed a supplementary affidavit dated 15.12.2020. The scheme "Mukhya Mantri Kisan Evam Sarvhit Bima Yojna" as amended, is part and parcel of the agreement/ insurance contract dated 13.09.2018 between the petitioner and the Governor of Uttar Pradesh.

Submissions:-

7. Learned counsel for the petitioner has referred to the averments

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made in paragraphs-10, 19 and 20 of the writ petition, which are reproduced below:

> *"10. That to substantiate the claim, the claimant submitted an income certificate dated 29.08.2019 showing her annual income as Rs.30,000/-. The said income certificate was prepared after 45 days of the death. A True copy of the claim petition along with the income certificate is being filed here with and is marked as **Annexure no.3** to this writ petition.*
>
> *19. That it would be worth the mention here that the claimant has filed her claim under the scheme on the strength of the income certificate issued beyond the period prescribed under the MOU.*
>
> *20. That it is categorically submitted that at the time of the renewal of the policy in 2018 the State has agreed to the term that the income certificate has to be issued within 45 days and not beyond that and as such the income certificate issued on 29.08.2019 was fatal for the claimant, for which the petitioner cannot be saddled with the liability."*

8. Learned standing counsel supports the impugned order.

Discussion and Findings:-

9. Kisan Bima Yojna has been enacted by the State Government with the following object and benefit to the State as mentioned in the scheme, which is reproduced below:

> *"योजना का नाम– ''मुख्यमंत्री किसान एवं सर्वहित बीमा योजना''*
>
> ***योजना का उद्देश्य–*** *विभिन्न प्रकार की अनिश्चित दुर्भाग्यपूर्ण घटनायें जिससे परिवार के मुखिया की मृत्यु हो सकती है/विकलांग बना सकती है जो पूरे परिवार के लिये असुरक्षा/विपत्तियां ला सकती हैं, की सहायता हेतु। "*

10. Mainly, the Kisan Bima Yojna is in two parts as mentioned in the scheme, as under:

> **"इस पालिसी के दो मुख्य भाग हैः–**

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1– **व्यक्तिगत दुर्घटना बीमा** (First part)
2– **दुघर्टना के उपरान्त चिकित्सा सुविधा एवं आवश्यकतानुसार कृत्रिम अंग।** (Second part)

भाग–1 **व्यक्तिगत दुर्घटना बीमाः–** परिवार के मुखिया/रोटी अर्जक की रेल/रोड/वायुयान से दुर्घटना, किसी भी टकराव, गिरने के कारण चोट, गैस रिसाव, सर्प काटने बिच्छू, नेवला, छिपकली काटने से मरना, सिलेण्डर फटने के कारण विकलांगता या मृत्यु, विस्फोट, कुत्ता काटने, जंगली जानवर के काटने से मरना, जलना, डूबना, बाढ़ में बह जाना, किसी भी प्रकार से हाथ–पैर कट जाना एवं विषाक्ता आदि दुर्घटना में शामिल हैं।

व्यक्तिगत दुर्घटना बीमा के अन्तर्गत केवल परिवार का मुखिया/रोटी अर्जक आच्छादित हैं।

– **दुर्घटना में मृत्यु**– यदि दुर्घटना के कारण परिवार के मुखिया/रोटी अर्जक की मृत्यु बीमा अवधि के दौरान हो जाती है तो बीमा कम्पनी सम्पूर्ण **बीमित राशि रू0 5.00 लाख** का भुगतान नामिनी/कानूनी वारिश को करेगी।

– **दुर्घटना में विकलांगता–** दुर्घटना में परिवार के मुखिया/रोटी अर्जक की विकलांगता की स्थिति में बीमा कम्पनी पीड़ित मुखिया/रोटी अर्जक को निम्नानुसार भुगतान करेगीः–

व्यक्तिगत दुर्घटना आवरण	अभिव्यक्त मुआवजा कुल बीमित राशि का प्रतिशत में
स्थायी पूर्ण विकलांगता	100 प्रतिशत
स्थायी और लाईलाज पागलपन	100 प्रतिशत
कुल दो अंगो के स्थायी नुकसान	100 प्रतिशत
दोनों आंखों में स्थायी दृष्टि का नुकसान	100 प्रतिशत
एक अंग और एक आंख की दृष्टि का स्थायी नुकसान	100 प्रतिशत
वाक् का स्थायी नुकसान	100 प्रतिशत
निचले जबड़े की पूरी हानि	100 प्रतिशत
चबाने की स्थिति का स्थायी नुकसान	100 प्रतिशत
दोनों कानों से बहरेपन की स्थिति	75 प्रतिशत
एक अंग का स्थायी नुकसान	50 प्रतिशत
एक आंख की दृष्टि हानि का स्थायी नुकसान	50 प्रतिशत

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<u>भाग–2 दुर्घटना के उपरान्त चिकित्सा सुविधा एवं आवश्यकतानुसार कृत्रिम अंग की उपलब्धता–</u>

परिवार के मुखिया/रोटी अर्जक तथा परिवार के सदस्य प्राथमिक उपचार एवं बड़े चिकित्सालय/ट्रामा सेन्टर में बीमित अवधि के दौरान दुर्घटना के उपरान्त चिकित्सा सुविधा एवं आवश्यकतानुसार कृत्रिम अंग प्राप्त कर सकेंगे। इसके अन्तर्गत परिवार का मुखिया/रोटी अर्जक/परिवार का सदस्य आच्छादित है।

<u>दुर्घटना के उपरान्त कवर</u>

कवरेज	लाभार्थी	बीमित राशि (रू0)
दुर्घटना के उपरान्त प्राथमिक चिकित्सा	परिवार का मुखिया/रोटी अर्जक/सदस्य	0.25 लाख
प्रथमिक चिकित्सा के उपरान्त बड़े चिकित्सालय/ट्रामा सेन्टर में चिकित्सा सुविधा।	परिवार का मुखिया/रोटी अर्जक/सदस्य	2.25 लाख
आवश्यकतानुसार कृत्रिम अंग	परिवार का मुखिया/रोटी अर्जक/सदस्य	1.00 लाख

11. The **beneficiaries** under the Scheme, **eligibility, features** of the Yojna and **Insurance Coverage** are provided in the Kisan Bima Yojna, as under:

"<u>लाभार्थी–</u> यह योजना उत्तर प्रदेश के निवासियों के लिये हैं।

<u>पात्रता–</u> उत्तर प्रदेश राज्य के समस्त कृषक (असीमित आय सीमा), भूमिहीन कृषक, कृषि से संबंधित क्रियाकलाप करने वाले, (मत्स्य पालक, दुग्ध उत्पादक, सूकर पालक, बकरी पालक, मधुमक्खी पालक इत्यादि) धुमन्तू परिवार, व्यापारी (जो कि किसी शासन योजना से आच्छादित नहीं है), वन श्रमिक, दुकानदार, फुटकर कार्य करने वाले, रिक्शा चालक, कुली एवं अन्य कार्य करने वाले ग्रामीण क्षेत्रों अथवा शहरी क्षेत्रों के निवासी जिनकी पारिवारिक आय रू0 75,000/– प्रति वर्ष से कम हो एवं जिनकी आयु 18 वर्ष से 70 वर्ष के मध्य है, पात्र होंगें। इसमें राज्य सरकार एवं भारत सरकार तथा राज्य एवं केन्द्र सरकार के पी0एस0यू के, वित्तीय सहायता प्राप्त संस्थानों के, निजी क्षेत्र के तथा स्वशासी निकायों/ सार्वजनिक उपक्रमों/निगमों/बोर्ड एवं प्राधिकरणों के कर्मचारी जो किसी बीमा कम्पनी की बीमा योजना से लाभान्वित हो रहे है, शामिल नहीं होगे। बीमा आवरण की अवधि में 18

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वर्ष की आयु पूर्ण करने वाले उक्त सभी योजना के अन्तर्गत पात्रता की परिधि में आयेगें। इसी प्रकार बीमा आवरण अवधि में 70 वर्ष पूर्ण हो जाने पर उक्त सभी पात्रता श्रेणी में माने जायेगें।

कृषक– कृषक का तात्पर्य राजस्व अभिलेखों अर्थात् खतौनी में दर्ज खातेदार/सहखातेदार से हैं, जिसकी आयु न्यूनतम 18 वर्ष तथा अधिकतम 70 वर्ष हो।

भूमिहीन कृषक एवं कृषि से संबंधित क्रियाकलाप– ऐसे ग्रामीण भूमिहीन परिवार जो प्रत्यक्ष या अप्रत्यक्ष रूप से कृषि कार्य से जुड़े हुए हों।

अन्य– कृषकों के अतिरिक्त जिनकी आयु 18 वर्ष से 70 वर्ष के मध्य है तथा पारिवारिक आय रू0 75,000/– प्रति वर्ष से कम हो, योजनान्तर्गत पात्र होंगे। इसमें राज्य सरकार एवं भारत सरकार तथा राज्य एवं केन्द्र सरकार के पी0एस0यू के, वित्तीय सहायता प्राप्त संस्थानों के, निजी खेत्र के तथा स्वशासी निकायों/सार्वजनिक उपक्रमों/निगमों/बोर्ड एवं प्राधिकरणों के कर्मचारी जो किसी बीमा कम्पनी की बीमा योजना से लाभान्वित हो रहे हैं, शामिल नहीं होंगे।

प्रदेश सरकार के किसी भी विभाग द्वारा संचालित किसी भी दुर्घटना बीमा योजना में आच्छादित लाभार्थी मुख्यमंत्री किसान एवं सर्वहित योजना के लिए पात्र नहीं होंगे।

परिवार आच्छादन– आच्छादित परिवार का मुखिया/रोटी अर्जक (बीमा धारक) रू0 5.00 लाख तक का व्यक्तिगत दुर्घटना बीमा लाभ एवं मुखिया/रोटी अर्जक/परिवार के सदस्य दुर्घटना के उपरान्त रू0 25,000/– तक प्राथमिक चिकित्सा एवं रू0 2.25 लाख तक वृहद्ध चिकित्सा लाभ तथा आवश्यकतानुसार अधिकतम रू0 1.00 लाख तक का कृत्रिम अंग प्राप्त कर सकेंगे।

बीमा आवरण की अवधि– बीमा आवरण की अवधि संस्थागत वित्त, बीमा एवं वाह्य सहायतित परियोजना महानिदेशालय, उ0प्र0 एवं बीमा कम्पनी के मध्य मेमोरेण्डम आफ अण्डरस्टैंडिंग (एम0ओ0यू0) हस्ताक्षरित होने की तिथि से एक वर्ष के लिए मान्य होगी तदोपरान्त् इसे वर्षवार बढ़ाया जायेगा। यह योजना 03 वर्ष + 03 वर्ष से अधिक नहीं होगी।

परिवार निर्धारण– परिवार के अन्तर्गत परिवार का मुखिया/रोटी अर्जक (पुरूष/स्त्री) उसकी पत्नी/पति, अविवाहित पुत्री, आश्रित पुत्र, मुखिया पति एवं अविवाहित पुरूष के आश्रित माता–पिता बीमा का लाभ प्राप्त करने हेतु आवृत्त होगें।

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लाभार्थी की पात्रता निम्न दस्तावेजों द्वारा निर्धारित की जायेगी:–

1. भू–राजस्व अभिलेख (खसरा/खतौनी कृषकों के मामलों में सहखातेदार सहित), **(किसी भी कृषक को आय प्रमाण–पत्र की आवश्यकता नहीं है)**

2. तहसीलदार से प्राप्त आय प्रमाण पत्र (अन्य के मामलों में)।

3. परिवार विवरण प्रमाण पत्र (कोई एक)

- परिवार रजिस्टर की प्रति।
- राशन कार्ड।
- उप जिलाधिकारी/प्रथम श्रेणी मजिस्ट्रेट द्वारा जारी प्रमाण–पत्र

4. आयु प्रमाण–पत्र (कोई एक)

- हाईस्कूल प्रमाण–पत्र।
- बैंक खाते की पासबुक।
- वोटर आई0डी0 कार्ड/वोटर लिस्ट की प्रति।
- नगर निगम/खण्ड विकास कार्यालय द्वारा जारी आयु प्रमाण–पत्र।
- पासपोर्ट।
- ड्राईविंग लाइसेन्स।
- आधार कार्ड।
- राशन कार्ड।

5. निवास प्रमाण–पत्र (इस योजना हेतु निवास प्रमाण–पत्र का निर्धारण) उ0प्र0 के निवासियों हेतु निम्न से कोई एक जिसमें नाम, पता दर्ज हो:

- पासपोर्ट
- ड्राइविंग लाइसेंस
- राशन कार्ड
- बैंक खाते की पासबुक
- वोटर आई0डी0कार्ड
- आधार कार्ड।
- उप जिलाधिकारी द्वारा जारी निवास प्रमाण–पत्र।

योजना की विशेषताएं–

1– नगद रहित सुविधायुक्त।

2– व्यक्तिगत दुर्घटना बीमा–परिवार के मुखिया/रोटी अर्जक की दुर्घटना में मृत्यु/स्थाई पूर्ण विकलांगता/स्थायी और लाईलाज पागलपन/कुल दो अंगों के स्थायी नुकसान/दोनों आंखों में स्थायी नुकसान /दोनों आंखों में स्थायी दृष्टि का

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नुकसान/वाक् का स्थायी नुकासान/निचलें जबड़े की पूरी हानि/चबाने की स्थिति का स्थायी नुकसान पर बीमित राशि रू0 5.00 लाख, दोनों कानों से बहरेपन की स्थिति में बीमित राशि रू0 5.00 लाख का 75 प्रतिशत तथा एक अंग का स्थायी नुकसान या एक आंख की दृष्टि हानि के स्थायी नुकसान पर बीमित राशि रू0 5.00 लाख का 50 प्रतिशत लाभ दिया जायेगा।

3– दुर्घटना के उपरान्त परिवार के मुखिया/रोटी अर्जक/परिवार के सदस्य के लिए लाभ–

मुखिया/सदस्य की दुर्घटना के उपरान्त चिकित्सा के लिये–रू0 2.50 लाख

मुखिया/सदस्य आवश्यकतानुसार रू0 1.00 लाख तक का कृत्रिम अंग

बीमा आवरण– यह योजना परिवार के मुखिया/रोटी अर्जक को व्यक्तिगत दुघ ार्टना एवं परिवार के मुखिया/रोटी अर्जक तथा परिवार के सदस्यों को दुर्घटना के उपरान्त चिकित्सा सुविधा एवं आवश्यकतानुसार कृत्रिम अंग की सुविधा प्रदान करेगी।”

12. Detailed and unambiguous procedure for lodging claims, awarding claims and review in the event of rejection of claim by the insurance company and other relevant matters including payment of claims and penalty of Rs.2,500/- per week for non-payment by the petitioner – Insurance Company, has been provided in the Kisan Bima Yojna, which is part of the contract between the petitioner and the State Government. The Scheme further provides the binding effect of the order passed by the District Review Committee headed by the District Magistrate. The relevant portion of the Kisan Bima Yojna with respect to rejection of claims, is reproduced below:

“गतिरोध का निपटान– दावे के अपर्याप्त अथवा अनौचित्य पूर्ण आधारों पर अस्वीकृत करने तथा चिकित्सालयों को बीमा कम्पनी द्वारा ससमय भुगतान न करने पर संबधित **जिलाधिकारी की अध्यक्षता में गठित समिति का निर्णय बीमा कम्पनी पर बाध्यकारी होगा।** ”

Claim process for Person Accidental Insurance

m) In case any discrepancies are found in the claim or if any controversy arises, the claim shall be investigated and the investigation report shall be

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presented to the concerned committee (headed by District Magistrate). The Committee shall include:

a. District Magistrate
b. Chief Development Officer
c. Chief Medical Officer
d. Sub- Divisional Magistrate

Representatives of the Insurance Company shall also be invited. ***The Committee shall take decision on all the discrepant/Controversial claims. The Insurance Company shall be bound to adhere to the decision taken by the Committee and make the payment within one month. In such cases. Insurance Company shall submit a cheque of amount payable to the District Magistrate who will hand over the cheque to the concerned Head of the family/ bread winner/nominee/ legal heir (as applicable) within 15 days."***

13. The aforesaid Kisan Bima Yojna was amended and the amendment also forms part of the Insurance Contract between the petitioner and the State Government. Amendments include that income certificate is not required for B.P.L. card holders, beneficiaries of Samajwadi Pension and farmers, khatedar/ sah-khatedar. For the purposes of the aforesaid Kisan Bima Yojna under the agreement, the State Government as per clause (1) of the agreement, has paid annual insurance premium to the petitioner for **Agra Cluster** - Rs. 105,93,81,344/-, **Meerut Cluster** - Rs. 54,03,58,132/-, **Bareilly Cluster** - Rs. 74,22,45,091/-**, Kanpur Cluster** - Rs. 76,09,84,705/- and **Basti Cluster** - Rs.25,74,05,500/-.

14. From the facts as briefly noted above and the relevant portion of Kisan Bima Yojna, it is evident that the Yojna, which is part of insurance contract between the petitioner and the State Government; is **an ambitious insurance for poor people**, which has been launched with the **pious object of welfare of the economically weaker, neglected and disadvantageous section of the society so as to provide them protection of medical/ treatment facility and to ensure medical facility and economic security to them in the event of disability or death of the head of the family or bread earner.**

15. Undisputedly, the husband of the respondent No.1 i.e. the

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deceased was the head of the family/ bread earner. He was a small farmer and as such in terms of the Kisan Bima Yojna scheme (as amended), no income certificate was even required. The award made by the respondent No.3, i.e. the District Review Committee is binding in terms of the afore-quoted clause (m) of the contract. In terms of the contract, the petitioner was bound to adhere to the decision of the Committee and make the payment within one month. But instead of making the payment, the petitioner, as an "ordinary litigant" has filed the present writ petition on frivolous grounds to drag in litigation the respondent No.1 who is a widow and belongs to socially, economically and educationally disadvantageous section of the society.

Plight of small farmers/ neglected/ disadvantageous section of the society:-

16. In **Bhusawal Municipal Council Vs Nivrutti Ramchandra Phalak and others, 2014(2) AWC 1407 (SC) (paras 16,17,18)**, Hon'ble Supreme Court made certain observations in a land acquisition matter with reference to the plight of farmers and poor persons of the society. It was observed, as under:

> *"16. The judicial process of the court cannot subvert justice for the reason that the court exercises its jurisdiction only in furtherance of justice.* ***The State/authority often drags poor uprooted claimants even for payment of a paltry amount upto this Court, wasting the public money in such luxury litigation without realising that poor citizens cannot afford the exorbitant costs of litigation and, unfortunately, no superior officer of the State is accountable for such unreasonable conduct****. It would be apt to quote the well known words of Justice Brennan:*
> *"Nothing rankles more in the human heart than a brooding sense of injustice. Illness we can put up with. But injustice makes us want to pull things down.* ***When only the rich can enjoy the law, as a doubtful luxury, and the poor, who need it most, cannot have it because its expense puts it beyond their reach, the threat to the continued existence of free democracy is not imaginary but very real, because democracy's very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness."***
> ***17. The fundamental right of a farmer to cultivate his land is a part of right to livelihood*** *"Agricultural land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity." India being predominantly an agricultural society, there is a*

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"strong linkage between the land and the person's status in the social system." "A blinkered vision of development, complete apathy towards those who are highly adversely affected by the development process and a cynical unconcern for the enforcement or the laws lead to a situation where the rights and benefits promised and guaranteed under the Constitution hardly ever reach the most marginalised citizens. For people whose lives and livelihoods are intrinsically connected to the land. the economic and cultural shift to a market economy can be traumatic." (Vide: Mahanadi Coal Fields Ltd. & Anr. v. Mathias Oram & Ors., (2010) 11 SCC 269; and Narmada Bachao Andolan v. State of Madhya Pradesh & Anr., AIR 2011 SC 1989)

18. ***A farmer's life is a tale of continuous experimentation and struggle for existence.*** *Mere words or a visual can never convey what it means to live a life as an Indian farmer.* ***Unless one experiences their struggle, that headache he will never know how it feels.*** *The risks faced by the farming community are many; they relate to natural calamities such as drought and floods; high fluctuation in the prices of input as well as output, over which he has no control whatsoever; a credit system which never extends a helping hand to the neediest; domination by middlemen who enjoy the fruits of a farmer's hard work; spurious inputs, and the recent phenomenon of labour shortages, which can be conveniently added to his tale of woes. Of late, there have been many cases of desperate farmers ending their lives in different parts of the country.* ***The Principles of Economics provides for the producer of a commodity to determine his prices but an Indian farmer perhaps is the only exception to this principle of economics, for even getting a decent price for their produce is difficult for them****. Economic growth through the 1990's had made India a more market- oriented economy, but had failed to benefit all Indians equally. The problems that plagued the farmers several decades ago are still glaringly present today; there is little credit available. What is available is very expensive. There is no advice on best practice in conducting agriculture operations. Income through farming is not enough to meet even the minimum needs of a farming family. Support systems like free health facilities from the government are virtually non-existent. The drama of millions leaving their homes in search of jobs, which are non existent of villages swiftly losing able-bodies of adults, leaving behind the old, hungry and vulnerable. Families break up as their members head in diverse directions.*

(Emphasis supplied by me)"

Government Insurance Company – whether an ordinary litigant?

17. Prior to independence, insurance business in India was owned and operated by private entities. The governing law of insurance in India was still the Insurance Act, 1938. Post independence, by the Industrial Policy Resolution 1956, the life insurance industry in India was to be nationalized.

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The Life Insurance Corporation Act, 1956 was passed creating Life Insurance Corporation as a statutory corporation and the assets of all the private Life Insurance Companies were transferred to L.I.C. Thereafter, the General Insurance (Emergency Provisions) Act, 1971 was passed by parliament which provided for taking over the management of general insurance business. Initially, the Central Government assumed management of general insurance business as an initial step towards nationalization. Thereafter, the General Insurance Business (Nationalization) Act, 1972, was passed. Section 16 of the Act, 1972 contemplated merger of the private insurance companies into four insurance companies namely, (a) National Insurance Company Ltd. (b) New India Assurance Co. Ltd. (c) **Oriental Insurance Co. Ltd. and** (d) United India Insurance Co. Ltd. These four insurance companies are fully owned subsidiaries of General Insurance Corporation of India, which is a Government company registered under the Companies Act but incorporated as mandated under Section 9 of the aforesaid Nationalization Act. Thus, the **petitioner – insurance company is fully owned subsidiary of the General Insurance Corporation of India.**

18. **Petitioner is a Government Insurance Company.** In the case of **Biman Krishna Bose vs. United India Insurance Company Ltd., (2001) 6 SCC 477 (para-3)**, Hon'ble Supreme Court considered a similar insurance company, namely United India Insurance Co. Ltd. and held that **it is a State within the meaning of Article 12 of the Constitution of India**. It was further observed that even, in an area of contractual relations, the State and its instrumentalities are enjoined with the obligations to act with fairness and must not take any irrelevant and extraneous consideration while arriving at a decision. Arbitrariness should not appear in their actions or decisions. In **United India Insurance Co. Ltd. Vs. Manubhai Dharmasinhbhai Gajera, (2008) 10 SCC 404 (Paras-25 and 26)**, Hon'ble Supreme Court held United India Insurance Company to be State within the meaning of Article 12 of the Constitution of India and observed that it has been created under the General

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Insurance Business Nationalization Act, 1972 and preamble thereof shows that it was enacted for achieving certain purposes; economic benefit of the people and/or group of people, being one of it. It was further observed that **there existed a distinction** between **a private player** in the field **and a public sector insurance company**. Whereas a private player in the field is only bound by the statutory regulations operating in the field, **the public sector insurance companies are also bound by the directions issued by the General Insurance Corporation as also the Central Government. Public sector insurance companies being State have a different role to play.** It is not to say that as a matter of policy, statutory or otherwise, the insurance companies are bound to regulate all contracts of insurance having the statement of **Directive Principles** in mind but there cannot be any doubt whatsoever that **fairness or reasonableness on the part of the insurance companies must appear in all of its dealings**.

19. Thus, the petitioner Insurance Company being a Government Company is not an ordinary litigant. It is State within the meaning of Article 12 of the Constitution of India.

20. In **Dilbagh Rai Jerry Vs. Union of India and others, (1974) 3 SCC 554**, Hon'ble Krishna Iyer J. (concurring) considered that what should be the approach of Government in litigation and observed as under:

> *"The judgment just delivered has my full concurrence but I feel impelled to make a few observations not on the merits but on governmental disposition to litigation, the present case being symptomatic of a serious deficiency.* ***In this country the State is the largest litigant to-day and the huge expenditure involved makes a big draft on the public exchequer. In the context of expanding dimensions of State activity and responsibility, is it unfair to expect finer sense and sensibility in its litigation policy, the absence of which, in the present case, has led the Railway callously and cantankerously to resist an action by its own employee, a small man****, by urging a mere technical plea which has been pursued right up to the summit court here and has been negatived in the judgment just pronounced.* ***Instances of this type are legion*** *as is evidenced by the fact that the Law Commission of India in a recent report on amendments to the Civil Procedure Code has suggested the deletion of Section 80, finding that wholesome provision hardly ever utilised by Government, and has gone*

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further to provide a special procedure for government litigation to highlight the need for an activist policy of just settlement of claims where the State is a party. ***It is not right for a welfare' State like ours to be Janus-faced, and while formulating the humanist project of legal aid to the poor, contest the claims of poor employees under it pleading limitation and the like.*** *That the tendency is chronic flows from certain observations I had made in a Kerala High Court decision which I may usefully excerpt here "The State, under our Constitution, undertakes economic activities in a vast and widening public sector and inevitably gets involved in disputes with private individuals.* ***But it must be remembered that the State is no ordinary party trying to win a case against one of its own citizens by hook or by crook; for the State's interest is to meet honest claims, vindicate a substantial defence and never to score a technical point or overreach a weaker party to avoid a just liability or secure an unfair advantage, simply because legal devices provide such an opportunity. The State is a virtuous litigant and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move, private parties to fight in court. The lay-out on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic show-downs where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of government some initiative and authority in this behalf. I am not indulging in any judicial homily but only echoing the dynamic national policy on State litigation evolved at a Conference of Law Ministers of India way back in 1957. This second appeal strikes me as an instance of disregard of that policy."***

(Emphasis supplied by me)

21. In the case of **Mundrika Prasad Singh Vs. State of Bihar, (1979) 4 SCC 701** (para-5, 6, 7), Hon'ble Supreme Court held as under:

"*5. The State of Bihar, like many other States in the country, has an enormous volume of litigation. Government litigation policy is vital for any State if resources are to be husbanded to reduce rather than increase its involvement in court proceedings.* ***It is lamentable that despite a national litigation policy for the States having been evolved at an all-India Law Ministers' Conference way back in 1957 and despite the recommendations of the Central Law Commission to promote settlement of disputes where Government is a party what we find in actual practice is a proliferation of government cases in courts uninformed by any such policy****. Indeed, in this country where government litigation constitutes a sizeable bulk of the total volume, it is important that the* ***State should be a model litigant with accent on settlement. The Central Law Commission, recalling a Kerala decision, emphasised this aspect in 1973 and went to the extent of recommending a new provision to be read as Order 27 Rule 5B. The Commission observed:***

27.9. We are of the view that there should be some provision emphasising the need for positive efforts at settlement, in suits to which the Government

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is a party.
27.10. With the above end in view, we recommend the insertion of the following rule :-
5-B(1) In every suit or proceeding to which the Government is a party or a public officer acting in his official capacity is a party, it shall be the duty of the Court in the first instance, in every case where it is possible to do so consistently with the nature of the circumstances of the case, to make every endeavour to assist the parties in arriving at a settlement in respect of the subject-matter of the suit.
(2) If, in any such suit or proceeding, at any stage it appears to the court that there is a reasonable possibility of a settlement between the parties, the court may adjourn the proceeding for such period as it thinks fit, to enable attempts to be made to effect such a settlement.
(3) The power conferred by Sub-rule (2) is in addition to any other power of the court to adjourn the proceedings.
*6. **The relevance of these wider observations is that avoidable litigation holds out money by way of fees** and more fees if they are contested cases and this lures a lawyer, like any other homo economicus, to calculate income on a speculative basis, as this Government Pleader has done in hoping for a lakh of rupees.*
*7. We have been taken through the Bihar Government's rubs for fees of Government Pleaders in subordinate courts. Rule 115 appetises and is unrelated to the quantum or quality of work involved nor the time spent. Ad valorem calculation in fixing fees for land acquisition cases has a tendency to promote unearned income for lawyers. The petitioner here has presumably fallen victim to this proclivity. The time has come for State Governments to have a second economic look not only at litigation policy but lawyer's fees rules (like Rule 115 in the Bihar instance) especially in mass litigation involving ad valorem enormity and mechanical professionalism. Even a ceiling on income from public sector sources may be a healthy contribution to toning up the moral level of the professional system. **After all, the cost of justice is the ultimate measure of the rule of law for a groaning people.** Government and other public sector undertakings should not pamper and thereby inflate the system of costs. May be, this petition would not have been filed had the prospect of income without effort not been offered by Government Rules.”*

(Emphasis supplied by me)

22. In the case of **Urban Improvement Trust, Bikaner Vs. Mohan Lal, (2010) 1 SCC 512** (paras-10,11, 12), Hon'ble Supreme Court took notice of unwarranted litigation by Governments and State authorities and held as under:

“10. ***Unwarranted litigation by governments and statutory authorities basically stem from the two general baseless assumptions by their officers. They are:***

(i) All claims against the government/statutory authorities should be viewed as illegal and should be resisted and fought up to the highest court of the

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> ***land.***
> *(ii) If taking a decision on an issue could be avoided, then it is prudent not to decide the issue and let the aggrieved party approach the Court and secures a decision.*
> ***The reluctance to take decisions, or tendency to challenge all orders against them, is not the policy of the governments or statutory authorities, but is attributable to some officers who are responsible for taking decisions and/or officers in charge of litigation.*** *Their reluctance arises from an instinctive tendency to protect themselves against any future accusations of wrong decision making, or worse, of improper motives for any decision making. Unless their insecurity and fear is addressed, officers will continue to pass on the responsibility of decision-making to courts and Tribunals.*
> *11. The Central Government is now attempting to deal with this issue by formulating realistic and practical norms for defending cases filed against the government and for filing appeals and revisions against adverse decisions, thereby, eliminating unnecessary litigation.* ***But, it is not sufficient if the Central Government alone undertakes such an exercise. The State Governments and the statutory authorities, who have more litigations than the Central Government, should also make genuine efforts to eliminate unnecessary litigation. Vexatious and unnecessary litigations have been clogging the wheels of justice, for too long making it difficult for courts and Tribunals to provide easy and speedy access to justice to bona fide and needy litigants.***
> *12. In this case, what is granted by the State Commission is the minimum relief in the facts and circumstances, that is to direct allotment of an alternative plot with a nominal compensation of Rs. 5000/- But instead of remedying the wrong, by complying with the decision of the Consumer fora, the Improvement Trust is trying to brazen out its illegal act by contending that the allottee should have been protested when it illegally laid the road in his plot. It has persisted with its unreasonable and unjust stand by indulging in unnecessary litigation by approaching the National Commission and then this Court. The Trust should sensitise its officers to serve the public rather than justify their dictatorial acts. It should avoid such an unnecessary litigation.*"

23. In the case of **Gurgaon Gramin Bank Vs. Khajani, (2012) 8 SCC 781** (para-2), Hon'ble Supreme Court considered the approach of Government to litigate in small and trivial matters and held as under:

> "*2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers' skin. Judicial system is over-burdened, naturally causes delay in adjudication of disputes. Mediation centers opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this Court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end.* ***At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for***

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> ***consideration or a question which affects a large number of persons or the stakes are very high, courts' jurisdiction cannot be invoked for resolution of small and trivial matters. We are really disturbed by the manner in which those types of matters are being brought to courts even at the level of Supreme Court of India*** *and this case falls in that category.*"
>
> **(Emphasis supplied by me)**

24. In the case of **Punjab State Power Corporation Ltd. Vs. Atma Singh Grewal, (2014) 13 SCC 666** (paras 8 to 14), Hon'ble Supreme Court noted the fact that courts are burdened with unnecessary litigation primarily for the reason that the Government or P.S.Us., etc. decide to file appeals even when there is absolutely no merit therein. Hon'ble Supreme Court further observed as under:

> "***8. It is not the first time that the Court had to express its anguish. We would like to observe that the mind set of the Government agencies/undertakings in filing unnecessarily appeals was taken note of by the Law Commission of India way back in 1973, in its 54th report. Taking cognizance of the aforesaid report of the Law Commission as well as National Litigation Policy for the States which was evolved at an All India Law Ministers Conference in the year 1972, this Court had to emphasize that there should not be unnecessary litigation or appeals. It was so done in the case of Mundrika Prasad Singh v. State of Bihar, 1979 (4) SCC 701****. We would also like to reproduce the following words of wisdom expressed by Justice V.R. Krishna Iyer, who spoke for the Bench, in Dilbagh Rai Jarry v. Union of India and Ors. 1974 (3) SCC 554.:(SCC p.562, para 25).*
>
> *But it must be remembered that the State is no ordinary party trying to win a case against one of its own citizens by hook or by crook; for the State's interest is to meet honest claims, vindicate a substantial defence and never to score a technical point or overreach a weaker party to avoid a just liability or secure an unfair advantage, simply because legal devices provide such an opportunity. The State is a virtuous litigant and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move private parties to fight in court. The lay out on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic show downs where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of government some initiative and authority in this behalf.*
>
> *9.* ***In its 126th Report (1988), the Law Commission of India adversely commented upon the reckless manner in which appeals are filed routinely. We quote hereunder the relevant passage therefrom:***
>
> ***"2.5. The litigation is thus sometimes engendered by failing to perform duty as if discharging a trust. Power inheres a kind of trust. The State enjoys the***

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power to deal with public property. That power has to be discharged like a trust keeping in view the interests of the cesti que trust. Failure on this front has been more often commented upon by the court which, if it was taken in the spirit in which it was made, would have long back energised the Government and the public sector to draw up its litigation policy. When entirely frivolous litigation reaches the doorsteps of the Supreme Court, one feels exasperated by the inaction and the policy of do nothingness evidenced by blindly following litigation from court to court. Dismissing a Special Leave Petition by the State of Punjab, the Court observed that the deserved defeat of the State in the courts below demonstrates the gross indifference of the administration towards litigative diligence. The court then suggested effective remedial measures. It may be extracted: (SCC p.69, para 4)

'4. We [would] like to emphasize that Government must be made accountable by parliamentary Social audit for wasteful litigative expenditure inflicted on the community by inaction. A statutory notice of the proposed action under Section 80 CPC is intended to alert the state to negotiate a just settlement or at least have the courtesy to tell the potential outsider why the claim is being resisted. Now Section 80 has become a ritual because the administration is often unresponsive and hardly lives up to parliament's expectation in continuing Section 80 in the Code despite the Central Law Commission's recommendations for its deletion. An opportunity for setting the dispute through arbitration was thrown away by sheer inaction. A litigative policy for the State involves settlement of governmental disputes with citizens in a sense of conciliation rather than in a fighting mood. Indeed, it should be a directive on the part of the State to empower its law officer to take steps to compose disputes rather than continue them in court. We are constrained to make these observations because much of the litigation in which governments are involved adds to the case load accumulation in courts for which there is public criticism. We hope that a more responsive spirit will be brought to bear upon governmental litigation so as to avoid waste of public money and promote expeditious work in courts of cases which deserve to be attended to.

Nearly a decade has passed since the observations but not a leaf has turned, not a step has been taken, and the Law Commission is asked to deal with the problem!

2.6. A little care, a touch of humanism, a dossier of constitutional philosophy and awareness of futility of public litigation would considerably improve the situation which today is distressing. More often it is found that utterly unsustainable contentions are taken on behalf of Government and public sector undertakings.

10. Even when Courts have, time and again, lamented about the frivolous appeals filed by the Government authorities, it has no effect on the bureaucratic psyche. It is not that there is no realisation at the level of policy makers to curtail unwanted Government litigation and there are deliberations in this behalf from time to time. Few years ago only, the Central Government formulated National Litigation Policy, 2010 with the "vision/mission" to transform the Government into an efficient and responsible litigant. This policy formulated by the Central Government is based on the recognition that it was its primary responsibility to protect the rights of citizens, and to respect their fundamental rights and in the process it should become "responsible litigant". The policy even defines the expression 'responsible litigant' as under:

"Responsible litigant" means-

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(i) That litigation will not be resorted to for the sake of litigating.
(ii) That false pleas and technical points will not be taken and shall be discouraged.
(iii) Ensuring that the correct facts and all relevant documents will be placed before the Court.
(iv)That nothing will be suppressed from the Court and there will not attempt to mislead any court or tribunal.
2. That Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, "Let the Court decide", must be eschewed and condemned.
3. The purpose underlying this policy is also to reduce government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the goal in the national legal mission to reduce average pendency time from 15 years to 3 years. Litigators on behalf of the Government have to keep in mind the principles incorporated in the national mission for judicial reforms which includes identifying bottlenecks which the Government and its agencies may be concerned with and also removing unnecessary government cases.
Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority."
11. ***This policy recognises the fact that its success will depend upon its strict implementation. Pertinently there is even a provision of accountability on the part of the officers who have to take requisite steps in this behalf. The policy also contains the provision for filing of appeals indicating as to under what circumstances appeal should be filed.*** *In so far as service matters are concerned, this provision lays down that further proceedings will not be filed in service matters merely because the order of the Administrative Tribunal affects a number of employees. Also, appeals will not be filed to espouse the cause of one section of employees against another.*
12. The aforesaid litigation policy was seen as a silver living to club unnecessary and uncalled for litigation by this Court in the matter of Urban Improvement Trust, Bikaner v. Mohan Lal 2010 (1) SCC 512 in the following manner:(SCC p. 516, para 11)
"11. ***The Central Government is now attempting to deal with this issue by formulating realistic and practical norms for defending cases filed against the Government and for filing appeals and revisions against adverse decisions, thereby eliminating unnecessary litigation. But it is not sufficient if the Central Government alone undertakes such an exercise. The State Governments and the statutory authorities, who have more litigations than the Central Government, should also make genuine efforts to eliminate unnecessary litigations. Vexatious and unnecessary litigations have been clogging the wheels of justice for too long, making it difficult for courts and tribunals to provide easy and speedy access to justice to bona fide and needy litigants."***
13. Alas, inspite of the Government's own policy and reprimand from this Court, on numerous occasions, there is no significant positive effect on various Government officials who continue to take decision to file frivolous and vexatious appeals. ***It imposes unnecessary burden on the Courts. The opposite party which has succeeded in the Court below is also made to incur avoidable expenditure.*** *Further, it causes delay in allowing the successful litigant to reap the fruits of the judgment rendered by the Court below.*

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14. No doubt, when a case is decided in favour of a party, the Court can award cost as well in his favour. It is stressed by this Court that such cost should be in real and compensatory terms and not merely symbolic. There can be exemplary costs as well when the appeal is completely devoid of any merit. [See Rameshwari Devi v. Nirmala Devi (2011) 8 SCC 249]. However, ***the moot question is as to whether imposition of costs alone will prove deterrent? We do not think so. We are of the firm opinion that imposition of cost on the State/PSU's alone is not going to make much difference as the officers taking such irresponsible decisions to file appeals are not personally affected because of the reason that cost, if imposed, comes from the government's coffers. Time has, therefore, come to take next step viz. recovery of cost from such officers who take such frivolous decisions of filing appeals, even after knowing well that these are totally vexatious and uncalled for appeals.*** *We clarify that such an order of recovery of cost from the officer concerned be passed only in those cases where appeal is found to be ex-facie frivolous and the decision to file the appeal is also found to be palpably irrational and uncalled for.*"

(Emphasis supplied by me)

25. Thus, the petitioner insurance company not being an ordinary litigant and more particularly bound by the insurance contract (as briefly noted above) should not have filed the present frivolous writ petition to challenge the impugned contractually "binding order". The conduct of the petitioner in filing the present writ petition deserves to be condemned inasmuch as a frivolous writ petition has been filed to drag in litigation the respondent No.1 who is a widow and belongs to economically weaker and socially and educationally disadvantageous section of the society.

<u>Applicability of National Litigation Policy:-</u>

26. The petitioner being a subsidiary of the Central Government owned Corporation i.e. General Insurance Corporation of India and being State within the meaning of Article 12 of the Constitution of India, must adhere to the National Litigation Policy, 2009 formulated by the Central Government. The relevant portion of the National Litigation policy is reproduced below:

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"National Litigation Policy

'Introduction

Whereas at the National consultation for strengthening the judiciay toward reducing pendency and delays held on October 24/25, 2009, the Union Minister of Law and Justice, presented resolutions which were adopted by the entire conference unanimously.

And wherein the said resolution acknowledged the initiative undertaken by the Government of India to frame the National Litigation Policy with a view to ensure conduct of ***responsible litigation by the Central Government and urges every State Government to evolve similar policies****.*

The National Litigation Policy is as follows:

The Vision/Mission

1. The National Litigation Policy is based on the recognition that the Government and its various agencies are the pre-dominant litigants in courts and Tribunals in the country. Its aim is to transform the Government into an efficient and responsible litigant. This policy is also based on the recognition that it is the responsibility of the Government to protect the rights of citizens, to respect fundamental rights and those in charge of the conduct of the Government litigation should never forget this basic principle.

"Efficient litigant" *means*

Focusing on the core issues involved in the litigation and addressing them squarely.

Managing and conducting litigation in a cohesive, co-ordinated and time-bound manner.

Ensuring that good cases are won and bad cases are not needlessly persevered with.

A litigant who is represented by competent and sensitive legal persons: competent in their skills and sensitive to the facts that the Government is not, an ordinary litigant and that a litigation does not have to be won at any cost.

"Responsible litigant" *means*

That litigation will not be resorted to for the sake of litigating.

That false pleas and technical points will not be taken and shall be discouraged.

Ensuring that the correct facts and all relevant documents will be placed before the court.

That nothing will be suppressed from the court and there will be no attempt to mislead any court or tribunal.

That nothing will be suppressed from the court and there will be no attempt to mislead any court or tribunal.

2. ***The Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, "Let the court decide" must be eschewed and condemned -***

3. The purpose underlying this policy is also to reduce Government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the goal in the National Legal Mission to reduce the average pendency time from 15 years to 3 years. Litigators on behalf of the Government have to keep in mind the principles in corporated in the National mission for judicial reforms which includes identifying

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> *bottlenecks which the Government and its agencies may be concerned with and also removing unnecessary Government cases. Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority."*

27. The aforesaid National Litigation Policy clearly provides that the Government should be a responsible litigant and should not involve in frivolous litigation. Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority.

28. Apart from the fact that the petitioner was bound by the impugned binding order under the terms of contract of insurance, the petitioner should also have adhered to the litigation policy and should have acted fairly and as a responsible litigant. The National Litigation Policy recognises that it is the responsibility of the Government to protect rights of citizens, to respect fundamental rights and those in-charge of the conduct of litigation should never forget this basic principle. Filing of the present writ petition shows that the petitioner has not only dis-respected the insurance contract between it and the State-Government but also acted unfairly against the rights of the claimant, i.e. respondent No.1.

Insurance Contract:-

29. In contract of insurance, rights and obligations are strictly governed by the policy of insurance, **vide Deokar Export (P) Ltd. Vs. New India Assurance Co. Ltd., (2008) 14 SCC 598 (para-14)**. While construing the terms of a contract of insurance, the words used therein must be given paramount importance, and it is not open for the Court to add, delete or substitute any words. It is also well settled that terms of the insurance policy have to be strictly construed in order to determine the extent of the liability of

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the insurer. The endeavour of the Court should always be to interpret the words used in the contract in the manner that will best express the intention of the parties. The contract must be read as a whole. It is not permissible for the court to substitute the terms of the contract itself. No exceptions can be made on the ground of equity. These principles are well settled. Reference in this regard may be had to the judgments of Hon'ble Supreme Court in the case of **Export Credit Guarantee Corporation vs M/S. Garg Sons International (2014) 1 SCC 686 (Paras-10 to 13), Industrial Promotion and Investment Corporation of Orrisa vs. New India Assurance Co. Ltd. (2016) 15 SCC 315 (paras-9 to 13), General Assurance Society Ltd. vs Chandumull Jain And Anr, 1966 SC 1644 (para-11), Suraj Mal Ram Niwas Oil Mills Pvt. Ltd. Vs. United India Insurance Co. Ltd., (2010) 10 SCC 567 (paras- 23 to 26), M/S Sumitomo Heavy Industries Ltd vs Oil & Natural Gas Company, (2010) 11 SCC 296 (para-36) and Vikram Greentech (I) Ltd. & Anr. vs New India Assurance Co. Ltd. (2009) 5 SCC 599 (para-17)**.

30. We have extracted certain relevant portion of the insurance contract between the petitioner and the State Government. As per terms of the afore-noted contract, income certificate in case of farmers, is not required. The husband of the respondent No.1 was a farmer. That apart, even if he is assumed as labourer, yet the income of the entire family had not exceeded Rs.75,000/- as per own report of the petitioner dated 04.10.2019 and the report of the investigator of the petitioner dated 25.11.2019 as noted in the impugned order. As per terms of contract of insurance, the petitioner is bound by the order of the respondent No.3 and was also bound to make payment within the time specified failing which penalty of Rs.2,500/- per week is payable to the claimant and yet the petitioner has filed the present writ petition instead of making the payment to the respondent No.1. Thus, the present writ petition is a frivolous writ petition. Consequently, it deserves to be dismissed with cost.

31. For all the reasons stated above, **the writ petition is dismissed**

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with cost of Rs.5,000/-. The petitioner shall comply with the impugned order and shall make the payment of awarded amount and the penalty to the respondent No.1 forthwith.

Order Date :- 25.01.2021
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