

CHAPTER XLVI

RULES UNDER THE INSURANCE ACT, 1938 (ACT No. 4 OF 1938)

836. Applications and appeals – All applications and appeals under the insurance Act, 1938 (herein after in this Chapter referred to as “the Act”), shall, if the registered office of the insurer or the provident society is situate within Greater Bombay, be heard and disposed of on the Original Side of the High Court by the Original Side of the High Court by the Judge in Chambers or such other Judge as the Chief Justice may appoint.

837. Mode of application - All such applications and appeals, other than appeals falling under clause (3) of section 110 of the Act, shall be made by petition supported by an affidavit and shall be intituled in the matter of the Act and in the matter of the insurer or the provident society, as the case may be. Where the application is under section 47 of the Act, the petition shall be intituled in the matter of the policy number.

Where an appeal falls under clause (3) of section 110 of the Act, the rules relating to appeals contained in Part II, Chapter LII shall, with any necessary modifications, apply to such appeal.

838. Disposal of petition – The Petition shall be presented to the Judge who may either accept the petition and direct notice thereof to be given to all necessary parties or may reject it summarily or may make such order as the circumstances of the case may require.

839. Application under section 47 – Where a petition is presented under section 47 of the Act, the Judge shall, if satisfied that so satisfactory discharge for the payment of the amount can otherwise be obtained, direct the insurer to make payment into Court and shall also direct in what Government securities the said amount shall be invested. If, in his opinion, such difficulty as may exist to the insurer obtaining a proper discharge is likely to be removed within a reasonable time, he may adjourn the said petition for such period as he may think reasonable or may make such order as the circumstances of the case may require.

840. Costs – The costs of the application for payment of the amount into Court shall be borne by the insurer. All other costs shall be in the discretion of the Court.

841. No payment into Court without leave, where action is pending – No payment shall be made into Court under the Act where any suit or proceeding to which the insurer is a party is pending in relation to the policy or the moneys thereby assured, except by leave of the Judge to be obtained in the suit or proceeding.

842. Notice of payment into Court – The insurer shall forth with give notice of such payment and of the order for the investment thereof by letter through registered post at its own costs to the several persons appearing to be entitled to or interested in the money assured and paid into Court, or who have given notice of claim to the company, except where such notice has been withdrawn.

843. Procedure regarding disposal of claim - Any person claiming to be entitled to or interested in the money paid into Court may apply by Chamber Summons for disposal of the claim or claims to the amount paid into Court and for payment of the same to him or to the person or persons entitled thereto.

844. Insurer not to be served, unless costs asked against him – Unless the Judge shall otherwise direct, the applicant shall not, except when he asks for payment of costs by the insurer, serve such summons on the insure, but shall serve the same on every person appearing from the petition on which payment into Court was made to be entitled to, or interested in, or to have a claim upon the money, and on any other person who has given notice of his claim to the Prothonotary and Senior Master.
