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Court No. - 07

Case :- MATTERS UNDER ARTICLE 227 No. - 5766 of 2023

Petitioner :- The New India Assurance Co. Ltd. Lko. Thru.
Assistant Manager Mr. Ravi Kant Yadav

Respondent :- Permanent Lok Adalat, Lucknow And 3 Others

Counsel for Petitioner :- Taranjeet Singh Makker

Counsel for Respondent :- C.S.C.,Rinku Verma

Hon'ble Saurabh Lavania,J.

Heard.

By means of the present petition, petitioner-The New India Assurance Co. Ltd. Lko. has challenged the order dated 22.08.2023 passed by the opposite party No.1-Permanent Lok Adalat, Lucknow in P.L.A. Case No. 80 of 2020 (Smt. Rachna & Another vs. The New India Assurance Co. Ltd. & Others).

Factual matrix of the case is to the effect that a scheme known as "*Mukhyamantri Kisan Evam Sarvahit Bima Yojana*" (hereinafter referred to as "Scheme") was promulgated by the State Government in association with the petitioner-The New India Assurance Co. Ltd., (in short "Company"). The agreement has been entered into by the State Government with the Company for the purposes of payment of certain sum of money in the event of head of the family/bread earner (breadwinner) dying or becoming physically handicapped. The Scheme was available to all those eligible under the terms of the Scheme.

It is submitted that one Shivam Verma, unmarried son of respondent Nos.2 and 3 died accidentally on 26.07.2019, thereafter, respondent Nos.2 and 3 filed a PLA Case No.80 of 2020 before the opposite party No.1 under Section 22-C(8) of Legal Services and Authorities Act, 1987. The opposite party No.1 had framed following three issues:-

"(1) क्या याचीगण याचिका में किये गये कथन के आधार पर विपक्षी सं०-1 बीमा कम्पनी से कोई बीमा धनराशि, ब्याज एवं अर्थदण्ड की धनराशि पाने के अधिकारी है? यदि हां तो कितनी धनराशि?

(2) क्या याचिका की सुनवाई का क्षेत्राधिकार इस स्थायी लोक अदालत को प्राप्त नहीं है?

(3) क्या याचीगण अन्य कोई अनुतोष पाने के अधिकारी हैं?"

The opposite party No.1, after framing above quoted issues, vide order dated 22.08.2023 allowed the claim petition and awarded Rs. 5,00,000/- as compensation alongwith penalty of Rs. 1,000/- per week since 12.02.2020 and entire amount be paid with interest @ 9% per annum from the date of filing of claim petition i.e. 16.03.2020 along with costs of Rs. 5000/-.

Learned counsel for the petitioner has submitted that the provisions of the said Scheme would indicate that the Scheme would only be available to the head of the family, who is also the "bread earner (breadwinner)", and once the head of the family was not the deceased rather it is his father, one of the claimants, who was the head of the family, as such, the opposite party No.1-Permanent Lok Adalat, Lucknow has patently erred in law in allowing the case filed by the claimants without considering this aspect of the matter.

It is also contended that even if for the sake of arguments the deceased is said to be the "bread earner (breadwinner)", even then, once no proof was led to the income of the bread earner, as such, he cannot be considered to be the "bread earner (breadwinner)" to fall within the ambit of the clause of the persons eligible under the Scheme and as such, the opposite party No.1 has patently erred in law in allowing the case. No other ground has been raised.

On the other hand, learned counsel for the respondent Nos. 2 and 3 submitted that a bare perusal of the provisions of the Scheme would indicate that the Scheme is not confined only to the head of the family/"bread earner (breadwinner)". In the Scheme expression/word "bread earner (breadwinner)" has also been used alongwith the words/expressions "head of the family/"bread earner (breadwinner)" as such, it is apparent that it is not only the father of the deceased, who would have been entitled for the benefit of the Scheme in case of any untoward incident, but the deceased too, in the capacity of being "bread earner (breadwinner)" would also be entitled for benefit of the Scheme. In this regard, he placed reliance on the judgment dated 06.04.2022 passed in **Writ - C No. 5317 of 2022 (Oriental Insurance Co. Ltd. vs. Smt. Kuntesh and Others)** as also on the judgment dated 24.11.2022 passed in **MATTERS UNDER ARTICLE 227 No. - 33280 of 2019 (Oriental Insurance Co.Ltd.Thru Sr.Div.Manager Lko vs. Smt. Geeta Devi And 3 Ors.)**, wherein, this Court followed the judgment passed in the case of **Smt. Kuntesh (supra)**.

Considered the submissions advanced by the learned counsel for the parties and perused the record.

The controversy revolves around the words/expressions "head of the family/bread earner" as have been used in the Scheme. This aspect of the matter has been considered by this Court in the judgment passed in the case of **Smt. Kuntesh (supra)**, wherein, this Court has held as under:-

"18. It is undisputed - the father of the Rahul Kumar namely Rajkumar was the 'Mukhiya/head of his family'. He had an earning. He was alive on the date of the road accident suffered by Rahul Kumar, on 14.10.2018. Therefore, the petitioner-insurer claims, insurance claim made, on the death of Rahul Kumar, was ineligible (under the Insurance Policy read with the Government Policy). The fact - later, during the term of the Insurance Policy, Rajkumar also suffered an accidental death, would make no difference to the ineligibility of the claim arising on the prior death of Rahul Kumar.

19. In short, the petitioner-insurer has invoked the principle - a stipulation in the Insurance Policy may be interpreted upon a complete reading of that contract. A contract is not to be read as a statute but as a whole document, in the context of the general object for which it was executed. Therefore, laying heavy emphasis on the 'Object' clause of the Government Policy and the 'Coverage' clause of the Insurance Policy, it has been vehemently urged, the coverage was singular. It was extended only to the 'Mukhiya/head of the family' who would have been the bread winner of his family.

20. Sri Parv Agarwal has placed reliance on a decision of the Supreme Court in Vania Silk Mills Ltd. Vs CIT, AIR 1991 SC 2104, to suggest, ordinary, popular and natural meaning is to be given to the word 'Mukhiya', used both under the Insurance Policy and the Government Policy.

21. Sri Pawan Kumar Singh has referred to Glynn Vs. Margetson, (1893) A.C. 351, to submit, all provisions of a contract should be read together. The intent of the parties to the contract must be clearly understood, therefrom. Only then a clear picture may emerge as to the true interpretation of the contract. Contrary to the

purpose of the contract (thus determined), an inconsistent word or provision may be rejected, in entirety. Relying on Investors Compensation Scheme Ltd. Vs. West Bromwich Building Society, (1998) 1 WLR 896, he would submit (as per his written note) - the following five principles are useful to interpret contracts, exist :-

"1. Contextual approach to interpretation

(i) Interpretation is the ascertainment of the meaning of the document to the reasonable person having all the background knowledge which would be reasonably available to the parties in the circumstances.

2. Wide scope of background knowledge

(i) Relevant background knowledge of the includes "absolutely anything" which would have affected the understanding of the reasonable man.

3. Pre-contractual negotiations are inadmissible

(i) Previous negotiations of the parties and their declarations of subjective intent are inadmissible as background.

(ii) The only exception is in an action for rectification. This distinction is made for practical policy of reducing litigation time and costs.

4. Substitution of words and syntax

(i) The background circumstances "may not merely enable the reasonable man to choose between the possible meanings of words which are ambiguous but even (as occasionally happens in ordinary life) to conclude that the parties must, for whatever reason, have used the wrong words or syntax."

(ii) Meaning is contextual not literal

5. Business common sense

(i) The natural and ordinary meaning must yield to business common sense if it flouts it

(ii) However, there is the presumption that people do not easily make linguistic mistakes

(iii) The natural and ordinary meaning is not unhelpful when words have not been used in a natural and ordinary way"

22. Then, reliance has been placed on the following two decisions of the Supreme Court and a decision of the Madras High Court to submit, the coverage

granted to the 'Mukhiya' may not be enlarged as it would conflict with the policy terms:

(i) South East Asia Marine Engineering & Constructions Ltd. Vs. Oil India Ltd., AIR 2020 SC 2323

(ii) M.O.H. Uduman & Ors. Vs. M.O.H. Aslum, AIR 1991 SC 1020

(iii) M/S Sha Moolchand Kesarimull Vs. M/S Associated Agencies, AIR 1942 Mad 139

23. Contesting the above, learned counsel for the claimant-respondents submits, the Insurance Policy was taken out by the State Government, to fulfil welfare objective. It covers both, the head of every eligible family as also every bread earner of every eligible family. Thus, they have relied on the eligibility-clause under the Insurance Policy and also the eligibility / 'Patrata' clause under the Government Policy (with reference to the other stipulations contained therein). It has been submitted, there is no exclusion made and there is no intent emerging from the reading of any of the clauses of the Insurance Policy or the Government Policy as may restrict the coverage under the Insurance Policy to a single person, namely, the 'Mukhiya' who may or may not be the sole bread winner of the eligible family. For ready reference, Eligibility clause of the Insurance Policy reads as below:

"ELIGIBILITY CLAUSE - All farmers of Uttar Pradesh (without any Income limit), Landless farmers, those related to Agriculture related activities, (Fishery, milk producing, pig farming, goat farming, Bee keeping etc.) nomadic/ roaming families, businessmen (who are not covered under any other Governmental Scheme), forest workers, retailers, Rickshaw pullers, porters and those engaged in other activities who are residents of rural or urban areas whose annual income is less than INR 75,000/- and age limit in between 18 to 70 years shall be eligible for this Scheme. During the currency of the Scheme, If a person attains the age of 18 years or a person crosses the age of 70 years, that person shall also be covered."

(emphasis supplied)

24. Also, the Eligibility clause of the Government Policy reads as below:

"पात्रता- उत्तर प्रदेश राज्य के समस्त कृषक (असीमित आय सीमा) भूमिहीन कृषक, कृषि से संबंधित क्रियाकलाप करने वाले, (मत्स्य पालक, दुग्ध उत्पादक, सूकर पालक, चकरी पालक मधुमक्खी पालक इत्यादि) घुमन्तू परिवार, व्यापारी (जो कि किसी शासन योजना से

आच्छादित नहीं 8). पन श्रमिक, दुकानदार, फुटकर कार्य करने वाले, रिक्शा चालक. कुली एवं अन्य कार्य करने वाले ग्रामीण क्षेत्रों अथवा शहरी क्षेत्रों के निवासी जिनकी पारिवारिक आय रु० 75.000/- प्रति वर्ष से कम हो एवं जिनकी आयु 18 वर्ष से 76 वर्ष के मध्य है पात्र होंगे। इसमें राज्य सरकार एवं भारत सरकार तथा राज्य एवं केन्द्र सरकार के पी०एस०यू० 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 हैं, शामिल नहीं होंगे। बीमा आवरण की अवधि में 18 वर्ष की आयु पूर्ण करने वाले उक्त सभी योजना के अन्तर्गत पात्रता की परिधि में आयेंगे। इसी प्रकार बीमा आवरण अवधि में 70 वर्ष पूर्ण हो जाने पर उक्त सभी पात्रता श्रेणी में माने जायेंगे।

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

भूमिहीन कृषक एवं कृषि से संबंधित कियाकलाप - 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 रु० 75,000/- प्रति वर्ष से कम हो योजनान्तर्गत पात्र होंगे। इसमें राज्य सरकार एवं भारत सरकार तथा राज्य एवं केन्द्र सरकार के पी०एस०यू० 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 हैं, शामिल नहीं होंगे। प्रदेश सरकार के किसी भी विभाग द्वारा संचालित किसी भी दुर्घटना बीमा योजना में आच्छादित लाभार्थी मुख्यमंत्रीकिसान एवं सर्वहित बीमा योजना के लिए पात्र नहीं होंगे।"

(emphasis supplied)

25. Thus, it has been submitted, the insurance company had taken a heavy premium to cover the risk of accidental loss of life - to the most vulnerable and the weakest in the economic ladder of our society. Each 'Roti Arjak / bread earner' of an eligible family, stood insured under the Insurance Policy, read with the Government Policy. The petitioner insurer has repudiated its liability on a fallacious ground of single risk coverage, that too to a 'Mukhiya / head of the family'. The coverage was, clearly plural.

26. Having heard learned counsel for the parties and perused the record, there can be no dispute to the fact that the occurrence (of accidental death of Rahul Kumar on 14.10.2018), fell within the contingencies covered by the Insurance Policy. It is also not in dispute that the total family income (of the family to which Rahul Kumar belonged), did not exceed Rs. 75,000/- per annum and that he was more than 18 years, but less than 70 years of age on the date of

occurrence of his accidental death. To that extent, there is no dispute.

27. In absence of person identification or name specification made while providing for the risk cover under the Insurance Policy, a dispute exists - which lives of an eligible family or contingencies faced by an eligible family would be covered and which would be not ?

28. Since the Insurance Policy and the Government Policy do not offer a direct answer to that issue, the terms and conditions of the Insurance Policy, the Government Policy (that has been made part of the Insurance Policy), and the Agreement would have to be examined in entirety to determine the same. To that extent, the principle being invoked by learned counsel for the petitioner is true and correct.

29. Examined in that light, first, under Clause 1 of the Insurance Policy, coverage of personal accidental death insurance benefit, Rs. 5,00,000/- was provided to the 'Mukhiya / head of the family / bread winner of an eligible family'. The person/s covered has/have been described as "Policy holder". It also cannot be denied, in that policy document, a clear reference exists - to the number of estimated persons covered, being 29,39,000, in the Meerut Cluster.

30. Then, in the eligibility clause of the Insurance Policy, persons engaged in various activities/vocations, whether residing in urban or rural areas were covered. First, all farmers (without income ceiling) were covered. Second, all landless labourers; all types of nomadic families; businessmen (not covered under any other government schemes); forest workers; retailers; rickshaw pullers; porters; etc. were covered, subject to their annual family income being less than Rs. 75,000/-.

31. Then, by way of general exceptions, that eligibility was made subject to age limit 18 to 70 years (of the insured person), provided further, if the insured person attained the age of 18 years or crossed the age of 70 years during the currency of the insurance term, he would still be covered thereunder. Further, by way of specific exclusion, the Insurance Policy provided as below:

EXCLUSIONS- Employees of Central Government, State Government, Public Sector Units (PSU) of Central Government or State Government, Financially aided Organizations, Private Sector, Autonomous Bodies/ Public Undertakings/ Corporations Boards and

Authorities who are covered under any insurance scheme shall not be covered under the Samajwadi Kisan & Sarvhit Bima Yojna Scheme.

EXCLUSIONS- Any beneficiary who is covered under any accidental Insurance scheme operated by any of the department of State Government shall not be eligible under the Samajwadi Kisan & Sarvhit Bima Yojna Scheme.

(emphasis supplied)

32. Similar clauses existed under the Government Policy, as well. Thus, it appears, the two documents are not conflicted. The Government Policy was framed earlier. Against that, the petitioner insurer was selected, through open tender process. The agreed premium was paid by the State Government and Insurance Policy taken out, by it. In such facts, the above two documents do not attempt to cover two different risks or contingencies. In fact, largely, one is the reflection of the other. The choice of exact words and elaborations made apart, per se, no clause has been shown to exist in either document that may conflict with any clause contained in the other. Then, Clause 5 of the Insurance Policy makes the Agreement (of which the Government Policy is a part), a part of the Insurance Policy.

33. Undisputedly, the risk of an accidental injury, was insured to the "head of the family" or "bread winner" and other members of an eligible family. While providing for that contingency and cover against accidental injury, the Insurance Policy did not specifically or by direct reference made, provide for coverage of risk to life against accidental death, of all or any other family member/s. Thus, exclusion is claimed to arise on a comparative reading of the relevant Clauses of the Insurance Policy. Yet, no contrary intention is expressed in the Government Policy or the Agreement.

34. Then, the opening Clause of the Government Policy discloses its object. It was to provide financial assistance to the eligible families against "Asuraksha/Vippatti" i.e. insecurity/calamity arising from the sudden accidental death of the "Mukhiya" i.e. the head of an eligible family.

35. At the same time, in the very next Clause, while providing for eligibility, that Government Policy includes within the sweep of the Insurance Policy, all members of eligible families. It includes citizens from

all walks of life, subject to specific general exclusions, noted above.

36. The term 'Mukhiya / head of the family' is not a term defined, either under the Government Policy or under the Insurance Policy. It is also not a term defined by legislature. Primarily, it is a social construct. Commonly, the eldest member of any family is described as its 'Mukhiya'. The Government Policy is progressive inasmuch as it has used the term 'Mukhiya / head of the family', in a more gender plural sense by using the words male/female.

37. If the intent of the Government Policy and, therefore, if the coverage under the Insurance Policy were to be confined to the 'Mukhiya' only, there would have arisen no need to mention 'Roti Arjak / bread earner'. The fact that such terms had been used by adding '/' (stroke) after the word 'Mukhiya', indicates the intent to cover either the head of the family, or its bread winner, during the term of the Insurance Policy - from 14.09.2018 to 13.09.2019. Clause 3 of the Insurance Policy reads as under :

"3. Below individuals shall be considered as family members under the Samajwadi Kisan & Sarvhit Bima Yojna Scheme:

- a) Head of the Family/Bread earner (Male/Female)*
- b) Husband/Wife of Head of the Family/Bread earner*
- c) Unmarried daughter*
- d) Dependent son*
- e) Dependent parents of unmarried son (where unmarried person is Head of the Family/Bread Earner)*
- f) Dependent parents of Head of the Family/Bread Earner (only in cases where husband is the Head of the Family)*

Note: Parents of wife shall not be covered."

(emphasis supplied)

38. Then, the clause pertaining to 'Parivar Nirdharan' contained in the Government Policy reads as below:

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

(emphasis supplied)

39. Thus, for the purpose of determining the family members/persons insured under the Insurance Policy, the 'Mukhiya / head of the family' could be both - the person insured as also a beneficiary. As 'Mukhiya / bread winner', such person was included as family member under Clause 3(a) of the Insurance Policy. He would be the 'policy holder'. At the same time if such person's unmarried or married son was a bread earner, such person though 'Mukhiya' would be a beneficiary, in case of occurrence of death of such married son [under Clause 3(e) & 3(f) of the Insurance Policy], subject to him being dependent on his son, now described as 'Head of the family / Bread Earner'.

40. Therefore, the Insurance Policy does seek to insure the risk to life of a person other than a 'Mukhiya / head of the family' also, in certain situations. In absence of the words "Ek Matra"/ sole prefixed to the phrase "Roti Arjak / bread earner" and in absence of any exclusion clause to oust a claim of a partly dependent 'Mukhiya', in the case of death of his married or unmarried son, it is to be seen if by use of word 'dependent' under Clause 3(e) and 3(f) of the Insurance Policy, only non-earning 'Mukhiya / head of the family', may become a beneficiary in the event of death of their earning son (married or unmarried).

41. While the Insurance Policy is silent in that regard, the object clause of the Government Policy makes it plain that the object was to take out an Insurance Policy to provide for vital aid to the financially most vulnerable and exposed families who may be faced with 'Asuraksha / Vippati' i.e. insecurity / calamity upon occurrence of accidental death of its 'Mukhiya' or 'Bread Earner'. A minimum amount of money as may help them avoid destitution, upon the loss of vital minimum earning was sought to be provided, to an eligible family, to address the insecurity or extreme hardship arising upon being faced with the calamity of death taking away the hope of minimum means to survive.

42. The Eligibility clause under the Government Policy, includes all citizens from different walks of life engaged in different professions and vocations, residing in different parts of the State. It includes all farmers (irrespective of their annual earning) and, others having family income less than Rs. 206/- per day (Rs. 75,000 / 365 days). Also, the insured "Mukhiya / head of the family / Roti Arjak / bread earner" could be a person in the age bracket of 18 years to 70 years. It is apparent that the intent of the Government Policy was

to insure all adult active members of an eligible family who may have had an earning.

43. Thus, a person below 18 years of age was treated to be ineligible. He would remain not - insured on deemed basis, though such person (in a given unfortunate situation), may have been the sole bread winner of his family. Correspondingly, any person above 70 years of age was treated to be the person not insured as he was deemed to be not contributing economically to his family.

44. Therefore, there may be no dispute to rejection of a claim made on occurrence of death of a person below 18 years of age or above 70 years of age. There, upon fiction introduced, the dead would not be of a person insured. Yet, a conflict would arise if interpretation made by learned counsel for the insurer is accepted with respect to a person aged below 70 years of age who may be the eldest member of an eligible family and who may (speaking hypothetically), be earning a frugal sum of say Rs. 24,000/- per annum. In that case, such a person would be included under the cover of the Insurance Policy in his capacity as 'Mukhiya'. Yet, as a beneficiary he would be ineligible to claim insurance money if his unmarried son (who may have been earning Rs. 50,000/- per annum), died an accidental death. It would be so because according to learned counsel for the petitioner-insurer, the claimant would not be wholly dependent on his son. At the same he would be eligible if his earning were nil.

45. The test of full dependency neither appears to exist under the Insurance Policy or the Government Policy or the Agreement nor it may be practicable to satisfy. Also, if strictly applied it may allow any and every such claim to be defeated upon the insurer being able to satisfy that the 'Mukhiya' / parent of the head of the family had earned, say Rs. 100/- per month, through any manual labour performed. That result would be plainly absurd. The Insurance Policy may not be interpreted to include and exclude the same person from the scope of insurance/beneficiary, simultaneously. Clearly, an ambiguity exists.

46. Undeniably, the Insurance Policy is a contract entered into between the petitioner-insurer & the State Government. Though it has been reached in furtherance of the Government Policy yet, its terms were drafted by the petitioner-insurer. It is those terms that bind it. Therefore, if the words used in the Insurance Policy give rise to two alternative

interpretations, one in favour of the petitioner-insurer and the other in favour of the insured, the rule of Contra Preferentum would apply. It thus commends to the Court to read the words 'Roti Arjak / bread earner', used in the coverage Clause (1) of the Insurance Policy to include all bread winners of an eligible family. Similarly the word 'dependent' used in 'Family Composition' - clause (3) of that policy includes partial dependency and/or inter-dependency. To that extent, those words have to be read against the petitioner-insurer as it was itself the draftsman of the Insurance Policy. Unless read in that manner, the core objective of the Insurance Policy - to preserve the most vulnerable lives of our society, would fail. In General Assurance Society Ltd. Vs. Chandumull Jain & Anr., AIR 1966 SC 1644 a Constitution Bench of the Supreme Court noted the applicability of rule Contra Preferentum, to insurance contracts. The said rule has been applied by the Supreme Court, recently, in Manmohan Nanda Vs. United India Assurance Co. Ltd. & Anr., 2021 SCC Online SC 1181.

47. Clearly, it is the risk/contingency of loss of life of either the "Mukhiya / head of the family" or a bread winner (described as "Roti Arjak / bread earner") that is insured. The object of that coverage is not simple life insurance, but, to prevent extreme destitution described under the Government Policy as 'Asuraksha / Vippati'. It would be unreasonable to conclude that the coverage is to be confined to the "Mukhiya / head of the family who is the sole "Roti Arjak / bread winner of the family'. A parent who may be dependent either, wholly or in part. In that case his earning son/s may also stand insured against risk of loss of life to the extent they would both be contributing to the minimal earnings of their family.

48. In absence of any specific exclusion under the Insurance Policy, there is no inherent logic to exclude the unfortunate occurrence of accidental death of any bread winner i.e. "Roti Arjak / bread earner" (as described under Insurance Policy) from the cover of insurance. Here, the underlying object of the policy must be given primacy. It is to offer minimal succour to the poorest of the poor i.e. families having income less than Rs.75,000/- per annum and who may suffer further hardship upon being confronted with more cruel and merciless circumstance of occurrence of sudden death of any adult earning member.

49. It has to be remembered, in that extreme circumstance, each grain would go to make the

smallest of small bread needed to keep the hope of life alive for the eligible family, as a unit. It is not uncommon that amongst the poorest of the poor, every hand whether tender and under age or withered and frail, upon hard labour performed, makes vital and decisive contribution to prepare the daily bread / 'Roti'. It is those unfortunate families that fall within the sweep of the Insurance Policy and the Government Policy.

50. At Rs. 206/- per day, the eligible family may barely have enough to keep its life boat afloat, if no illness or other such circumstance cuts a hole in that. In the precarious financial situation such as that (of an eligible family having annual income of less than Rs. 75,000/- i.e. Rs. 206/- per day), no earning member of that family, including its 'Mukhiya / head of the family' whether the eldest member of the family or the one with highest earning would be financially independent. He alongwith all earning members of his family would remain financially inter-dependent on each earning hand of that family. Hence, the word 'dependent' used in Clause 3(e) and 3(f) of the Insurance Policy only refers to a condition of joint living and not of complete loss of earning, suffered by the eligible family.

51. Thus, the principle being invoked by learned counsel for the petitioner - of 'main'/sole' bread winner or of 'wholly/solely dependent' is unreal and artificial. If applied it would lead to absurd results. Looked through the eyes of the beneficiary, it may appear a bourgeois construct. It would stand in direct conflict to the socialistic soul of our Constitution. In that circumstance, the principle - each drop fills the bucket is more appropriate and apt. There, may not arise any surplus to such family and all money earned by different hands may, at best, be just enough. Each rupee or each hand full of grain earned would be equally valuable. It is impossible to differentiate between hands when each brings only a handful. In such an unfortunate and extreme circumstance, the concept of 'wholly dependent' is purely academic and a thought that may lead to absurd results. It is therefore, rejected.

52. Therefore, the only reasonable construction that may be given to the coverage clause under the Insurance Policy read with the Government Policy is to allow for coverage of each adult earning hand of an eligible family (below 70 years of age), including its 'Mukhiya / head of the family'. The fact that he

may or may not be the sole bread winner, to a lesser or greater extent, would not be relevant. The eligibility would be subject to the general exclusions provided under the Insurance Policy, noted above.

53. That said, in the unfortunate occurrence of more than one death during the policy period, the insurer may be exposed to honour only the first claim per eligible family. It is so because as noted above, the 'Object' and 'Eligibility' clauses of the Government Policy and the Insurance Policy contemplate insurance coverage to overcome destitution described as 'Asuraksha / Vippati' arising from the death of an earning hand. Second, the coverage of life was provided (under the Insurance Policy) to an estimated 2939000 persons being the exact number of eligible families estimated and as recorded in Clause 4 of the Insurance Policy, against accidental loss of life of an earning member, as may plunge the family income below Rs. 206/- per day. That is the level of family income that the Government Policy (that is part of the Insurance Policy) recognised, both as the money required to survive and also as a factor to identify the beneficiaries who need the insurance cover to sustain basic human existence. The quantum of compensation is also equal to about 6-7 years of that minimum income support.

54. Further, in absence of any clause, words and expressions used, either under the Insurance Policy or the Government Policy to provide individual coverage to all bread winners, in an eligible family, it appears, during the policy term from 14.09.2018 to 13.09.2019, death of only one earning member of an eligible family would stand covered. The stroke - '/' mark placed between the words 'head of the family' & 'Bread Earner' under Clause 1 i.e. coverage clause of the Insurance Policy also suggests the same intent. To that extent, the submission of learned counsel for the petitioner carries weight. The object was to provide minimum and immediate succour to eligible family and not to compensate for all losses of lives suffered, by an eligible family, in one policy term. If accepted, that may amount to re-writing the contract which the Courts may not do.

55. Insofar as the present case is concerned, at the time of death of Rahul Kumar, he was found to be engaged in agricultural activity, though along with his father. The Permanent Lok Adalat has found, the deceased was also engaged in some manual labour drawing earning therefrom. That finding is not

perverse. Undisputedly, he was more than 18 years of age during the policy term. Therefore, he was a person covered under the Insurance Policy as a bread winner of his family though he may not have been its 'Mukhiya'. He was a bachelor, contributing to his family's meagre income below Rs. 75,000/- per annum."

(emphasis by Court)

In addition, it would be apt to note that the word/expression "Breadwinner" has been defined in various Dictionaries and the same is to be taken note of for word/expression "Bread earner".

The meaning of word/expression "Breadwinner", as per, Shorter Oxford English Dictionary, Fifth Edition, Volume 1 A-M, published by Oxford University Press is that *"the person whose work supports a family"*. As per, The Oxford English Dictionary, Second Edition, Volume II, B.B.C.-Chalypsography published by Clarendon Press, Oxford, the meaning of word/expression "Breadwinner" is that "a person who earns money to support their family". Sahani Advanced Illustrated Dictionary also indicates that the "Breadwinner" would be a "person who works to support a family".

From the record available including the copy of Application/Claim Petition under Section 22 of the Legal Services Authority Act, 1987, Written Statement, Statements of Smt. Rachna (mother of the deceased), Ramesh Kumar, Rajendra Prasad, Raj Kumar Patel, Ramdev and Doodhnath, it is apparent that the deceased was earning from tuition and was supporting the family including from his earnings.

Upon due consideration of aforesaid including meaning of the word/expression "Breadwinner" and the judgment(s),

referred above, wherein this Court, after interpreting the words/expressions "head of the family/bread earner" has held that even a deceased unmarried person, though not strictly the head of the family, would fall within the ambit of word/expression "bread earner (breadwinner)" and as such, the family members would be entitled for benefit of the Scheme and the fact that no other judgment has been brought to the notice of the Court to dispute the aforesaid expression(s), this Court is of the view that the repudiation of the claim by the Company on the ground that the deceased was not the head of the family/bread earner (breadwinner) cannot be said to be legally valid in the eyes of law and the said objection has correctly been rejected by the opposite party No.1.

So far as the ground of documents regarding the income certificate etc. not having been annexed, it is suffice to say that the opposite party No.1 has itself indicated in its order that an affidavit was filed on behalf of the claimants that the deceased was earning his livelihood from engaging in agricultural work and the said affidavit was not refuted by the Company and as such, it is too late now to state before this Court that the deceased was not an earning member.

In view of aforesaid discussion, this Court is not inclined to interfere in the impugned order dated 22.08.2023. Accordingly, the petition is **dismissed**. No order as to costs.

Order Date :- 09.02.2024

Vinay/-