

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.569 OF 2024**

Mannan Miah

..... **Petitioner(s)**

Versus

Cholamandalam M.S. General Insurance Company Ltd and ors.

.....**Respondent(s)**

For the Appellant(s) : Mr. Somik Deb, Sr. Advocate.
Mr. P.L. Debbarma, Advocate.

For the Respondent(s) : Ms. R. Purukayastha, Advocate.
Mr. Rajib Saha, Advocate.
Mr. K. De, Advocate.

Date of hearing and delivery of
Judgment & Order : 25.04.2025.

Whether fit for reporting : YES.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R(ORAL)**

सत्यमेव जयते

Heard Mr. Somik Deb, learned Sr. counsel, assisted by Mr. P.L. Debbarma, learned counsel appearing for the petitioner, as well as Mr. Rajib Saha, learned counsel appearing for the respondents.

2. The brief facts of this case are that the petitioner had purchased a health insurance policy from the respondent-company, which promised a lump sum payment of Rs.1,50,000/- if

the petitioner was hospitalized for more than 72 hours due to COVID-19 complications during the policy period. Subsequently, the petitioner was admitted to a Dedicated Covid Health Centre (DCHC) and remained hospitalized for the required period. After discharge, the petitioner submitted a claim along with all available documents. However, the insurance company demanded the Internal Case Papers (ICP) of the treatment. The Nodal Officer of the DCHC informed that the ICPs were kept in a highly restricted zone and could not be accessed until the center became non-operational, despite detailed searches. Despite being informed of this genuine difficulty, the insurance company insisted on the production of the ICPs and ultimately repudiated the claim. Aggrieved by the repudiation, which the petitioner claimed was in breach of the policy terms, he approached the Insurance Ombudsman. However, the Ombudsman disposed of the complaint awarding only Rs.50,000/-. The petitioner raised objections and requested payment of the balance amount. Nevertheless, the insurance company obtained an acknowledgment of full and final settlement from the petitioner upon disbursing Rs.50,000/-. The petitioner thereafter approached the District Consumer Disputes Redressal Commission (Ld. DCDRC), seeking directions for payment of the balance amount along with compensation for harassment and mental agony. The DCDRC dismissed the complaint, holding that the dispute had already been

settled by acceptance of Rs.50,000/- under full and final settlement. The petitioner challenged this order before the State Consumer Disputes Redressal Commission (*in short* 'SCDRC'), but the SCDRC affirmed the DCDRC's decision.

3. Aggrieved by the orders of the consumer forums and alleging that they failed to properly apply the Insurance Ombudsman Rules, 2017, relying solely on technicalities, the petitioner has preferred this Writ Petition.

4. Mr. Somik Deb, learned Sr. counsel assisted by Mr. P.L. Debbarma, learned counsel, submits that the petitioner received the awarded amount of Rs.50,000/- under protest, which is evident from his email dated 07th April 2022 sent to the respondent-company. Hence, the plea of acknowledgment of receipt for full and final satisfaction is *non-est ab initio* and cannot be used as a legal weapon by the insurance company to deprive the petitioner of his legitimate claim.

To support this argument, the learned Sr. counsel relied upon **Para-8** of the judgment of the Hon'ble Supreme Court reported in **(2011) 2 SCC 400** titled **R.L Kalathia and Company Vs. State of Gujrat**. The same is reproduced herein:-

"It is the stand of the State and accepted by the High Court that the plaintiff Firm has not fully complied with Clauses 8 and 10 of the agreement. It is also their stand that mere endorsement to the effect that the plaintiff has been accepting the amount as per final bill "under protest" without disclosing real grievance on merits is not sufficient and it amounts to accepting the final bill without any valid objection and grievance on merits by the plaintiff. The High Court has also accepted the claim of the State that by the conduct of the plaintiff in accepting the final bill and the Department has made full payment to the plaintiff, sending a statutory notice and filing a suit for recovery of the differential amount was barred by the principle of estoppel."

5. On the other hand, Mr. R. Saha, learned counsel appearing for the respondent-company, submits that the petitioner accepted the said amount without protest on 12.04.2022 via Acknowledgment of Claim Payment Cheque, and as such, the present writ petition is liable to be dismissed.

6. Heard and perused the evidence on record.

7. The order passed by the State Consumer Disputes Redressal Commission, in light of the Ombudsman's award, requires no interference, as the petitioner, vide Acknowledgment of Claim Payment Cheque dated 12.04.2022 (*Annexure-5 to the writ petition*), has undisputedly and without any protest obtained the sum of Rs.50,000/-, and thereafter made no further demand. This reasonably presumes that the payment was treated as full and final settlement. This action of the petitioner is hit by *constructive res judicate*. Therefore, petitioner is stopped from making further

demand in the light of receipt of the voucher for full and final settlement.

8. Accordingly, the present writ petition stands dismissed. As a sequel, any interim stay, if granted, stands vacated. Pending application(s), if any, also stand(s) closed.

JUDGE



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