

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 5978 of 2015 (V)

PETITIONER(S):

**ANUPAMA. V., AGED 39 YEARS,
W/O.LATE E.K. SREDEEP, SUKUMAR NIVAS,
ODATHIL PEEDIKA, POST MAMBA, KANNUR - 670 611.**

BY ADV. SRI.CIBI THOMAS.

RESPONDENTS:

- 1. CENTRAL OFFICE CLAIMS DISPUTE REDRESSAL COMMITTEE,
LIFE INSURANCE CORPORATION OF INDIA, CENTRAL OFFICE,
YOGAKSHEMA, 5TH FLOOR LINK, J.B. ROAD,
MUMBAI - 400 021.**
- 2. THE DIVISIONAL MANAGER,
LIFE INSURANCE CORPORATION OF INDIA,
KOZHIKODE - 673 001.**
- 3. THE INSURANCE OMBUDSMAN,
OFFICE OF THE INSURANCE OMBUDSMAN,
KOCHI - 682 035.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 5978 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1. TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT.

EXHIBIT P2. TRUE COPY OF THE LETTER DATED 22.03.2014 ISSUED TO
THE PETITIONER BY THE 2ND RESPONDENT.

EXHIBIT P3. TRUE COPY OF THE ORDER DATED 09.01.2015 OF THE
3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.5978 of 2015

Dated this the 2nd day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"a) a writ of certiorari call for the records leading to Exts.P1 to P3 and quash the original of the same;

b) Issue a mandamus or any other appropriate writ order or direction, directing the respondents 1 and 2 to reconsider the matter and allow the claim made by the petitioner;

AND

c) to grant such other reliefs prayed for from time to time including cost of these proceedings."

2. It is seen from the pleadings and proceedings that the deceased husband of the petitioner had taken different policies from the respondents, covering his life. He took his last breath on 06.06.2011. Pursuant to this, the petitioner preferred a claim, which came to be rejected as per Ext.P1 order passed by the 1st respondent holding that the claim was not payable, because of suppression of existing elements. Though the petitioner

approached the 3rd respondent by filing necessary proceedings, interference was declined and the complaint was dismissed as per Ext.P3 dated 09.01.2015. This made the petitioner to approach this Court by filing the writ petition.

3. The factual position and the reason for rejection of the claim is very much discernible from Ext.P1, which reads as follows:

"In this connection, we have to inform you that in the proposals for assurance signed by the deceased on 18.09.2008, 18.09.2008, 24.03.2006 & 31.03.2006 he had answered the following questions as under noted:

Questions

Answers

11 a) During the last five years, did you consult a Medical Practitioner for any ailment requiring treatment for more than a week?

No

b) Have you ever been admitted to any hospital or nursing home for general checkup, observation, treatment or operation?

No

d) Are you suffering from or have you ever suffered from ailments pertaining to liver, stomach, heart, Lungs, kidney, brain or nervous system?

No

e) Are you suffering from or have you ever suffered from Diabetes, Tuberculosis, High Blood Pressure, Low Blood Pressure, Cancer, Epilepsy, Hernia, Hydrocele, Leprosy, or any other disease?

No

i) What has been your usual state of health? Good

However, we have to state that all these answers were incorrect as we have evidences and

reasons to believe that he was admitted at Christian Medical College, Vellore, on 27.04.2005 to 18.05.2005 and 18.11.2005 to 24.11.2005 for Acute Lymphocytic Leukemia. Life assured was a known case of ALL, Diabetes Mellitus, Hepatic Dysfunction since April 2005 and underwent treatment upto the date of death at various hospitals viz., CMC Vellore, AIMS EKM and AKG Hospital, Kannur. He did not however, disclose these facts in his proposals. Instead he gave incorrect answers as stated above."

From the above, it is quite evident that all the relevant answers have been given contrary to the actual position and the factum of admission in the Hospital including the CMC, Vellore, AIMS, Ernakulam and AKG Hospital, Kannur has not been revealed by the policy holder at the time of applying for and obtaining the policy. It was in the said circumstances that, the policy was repudiated by the 1st respondent as Ext.P1, which stands confirmed by the 3rd respondent as well vide Ext.P3.

4. In the above facts and circumstances, this Court finds it difficult to accept the version of the petitioner with regard to the merits involved. Even otherwise, it has been repeatedly made clear by this Court on many an occasion that the rights and liberties of the parties arising out of an insurance policy cannot

be resolved by invoking the discretionary jurisdiction of this Court under Article 226 of the Constitution of India.

In the above circumstances, interference is declined and the writ petition is dismissed.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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