IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.13627 of 2015
Date of Decision: July 10, 2015

Tata AIA Life Insurance Company Ltd.

...Petitioner

Versus

Karnail Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Aman Bansal, Advocate for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the award dated 23.04.2015 (Annexure P-8) passed by the Insurance Ombudsman, by which refund of the premium amount without interest and without deduction of any charges, has been ordered.

It is the contention of the counsel for the petitioner that respondent No.1 had taken two insurance policies from the petitioner for a sum of ₹2,50,000/- with a lock-in period of five years. The premium for each of the said policies was ₹50,000/- per annum. The initial two premiums were received by the petitioner-company, however, 3rd premium, which came to be an amount of ₹1,00,000/- as there were two policies, were collected by one Shri Vipin Sharma, who was not the authorized agent of the company and, therefore, since the premium was not being received by the petitioner, the policy had lapsed.

Respondent No.1 approached the Insurance Ombudsman, wherein a specific stand was taken by the petitioner-company that it is not liable to pay the amount as the policies have lapsed because of non-payment of 3rd premium for both the policies as the said amount was not received by the company. He says that for collection of cash by any person except for the authorized agent of the company, the company cannot be held liable. It is out of good faith that a complaint dated 30.12.2013 was filed by the petitioner-company to the Commissioner of Police, District Ambala, which was registered as complaint No.9 dated 03.01.2014 (Annexure P-9), where as per the information supplied to the company by respondent No.1, the name of the accused was mentioned as Vipin Sharma, who had collected the 3rd premium amount from respondent No.1. He thus contends that the impugned award cannot sustain. It has further been pointed out that the Insurance Ombudsman has wrongly recorded that a F.I.R. has been got registered by the petitioner-company, in fact, the complaint has yet not been registered as a F.I.R. and it is merely a complaint, which is being inquired into by the police. He thus prays that the present writ petition may be allowed.

I have considered the submissions made by counsel for the petitioner and have gone through the pleadings as also the impugned award.

It is a fact that two policies were taken by respondent No.1-Karnail Singh from the petitioner-company, of which premium for each of them was ₹50,000/- per year and the initial two annual premiums have been paid by respondent No.1. The dispute arose at the stage when the 3rd premium was to be paid. It is asserted by the petitioner that the 3rd premium should have been deposited by respondent No.1 with the company but keeping in view the fact that the alleged agent of the company namely Shri Vipin Sharma, who had an Identity Card of the company, approached respondent No.1 for collection of the premium amount and the same was handed over to him, the company cannot now wriggle out of its liability by disputing the identity of the person. A policy holder under a *bona fide* belief has handed over the premium amount to the agent of the petitioner-company and merely because a complaint has been filed by the petitioner-company, would not exonerate it from the liability. By disputing the identity of the agent, the petitioners cannot wash their hands from their legal responsibility.

In any case, the Insurance Ombudsman has only ordered the refund of the total premium and that too without interest and without deduction of any charges. The award passed by the Ombudsman is just and equitable and does not call for any interference of this Court in exercise of its extra ordinary writ jurisdiction under Article 226 of the Constitution of India.

In view of the above, the writ petition stands dismissed.

July 10, 2015 **(AUGUSTINE GEORGE MASIH)**
Puneet **JUDGE**