HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

<u>WRIT PETITION Nos.12750 OF 2013 AND 28445 OF 2015</u>
AND
<u>C.C(SR) No.6353 OF 2013</u>

<u>COMMON ORDER:</u>

<u>W.P.No.12750 of 2013</u>: (per Hon'ble Dr.Justice B.Siva Sankara Rao)

The prayer in the Writ Petition filed by the petitioner Sri B.Bala Mukunda Rao, (Advocate by avocation) on 22.04.2013, maintained against 1) The A.P. State Commission for Consumer Disputes Redressal (for short, 'the State Commission') represented by its Registrar, Hyderabad, 2) The National Insurance Company Limited (for short, 'NIC'), represented by its Branch Manager, Hyderabad, 3) The Bank of Baroda (for short, 'the Bank'), represented by its Branch Manager, Hyderabad and 4) The District Forum-I represented by its Registrar, Hyderabad, is as follows:-

> "to issue any appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus and call for records on the file of the 1st respondent in F.A.No.142 of 2012 filed against C.C.No.425 of 2011 before the District Consumer Forum-I, Hyderabad and set aside the same as illegal, arbitrary, contrary to the Rules, and further direct the 2nd respondent to release the insurance amount which is due to me by following the recommendations of the Chairman, Bar Council of A.P. and also by taking into the judgments rendered by the Hon'ble Apex Court and National Forum and further direct the 2nd respondent to renew the insurance policy which is going to be expired by 24.04.2013 by duly receiving the cheque given by me and pass such other order or orders as this Honble Court may be pleased to deem fit and proper."

2. The averments in the affidavit filed in support of above prayer in brief are that he obtained Health Insurance Policy on 26.04.2010 from the NIC through the Bank for Rs.3,00,000/-(Rupees three lakhs only) on premium of Rs.4751/-(Rupees four thousand seven hundred and fifty one only) covering the risk on life of the petitioner and his

family members. While so, on 03.05.2010 he developed giddiness and restlessness and approached a nearby doctor who referred him to Kamineni Hospital, King Koti, Hyderabad where he was admitted on 03.05.2010, and was advised to undergo open heart surgery, however to have second medical opinion, himself discharged therefrom on 05.05.2010 and later admitted in Sigma hospital, Secunderabad where even the doctors opined of he was needed to undergo open heart surgery and consequently the operation was performed on 11.05.2010 and he was discharged on 18.05.2010 and later he was using the medicines prescribed by the doctors which is a life long requirement. He further averred that he filed claim petition before the NIC and the Bank by enclosing relevant documents but the NIC rejected his claim stating that there are violations of terms and conditions of policy. According to him, said rejection is by non-application of mind and against the principles of natural justice which driven him to file cases before the District Consumer Forum and the State Commission in claiming genuine insurance policy amount and he also made an application to the Bar Council of Andhra Pradesh, which addressed a letter to the NIC to reconsider his claim and on 01.02.2013, he submitted a representation along with the recommendation made by the Bar Council to the NIC along with judgments in support of his claim which the NIC and the Bank did not follow. It is further averred that his Health Insurance Policy is going to expire by 24.04.2013 and he has given a cheque on 13.04.2013 thereby the premium to the NIC to renew the policy that was also rejected without giving reasons by the NIC in collusion with the Bank and thereby sought for the reliefs detailed supra.

W.P.No.28445 of 2015

3. The self-same petitioner filed this 2nd Writ Petition against the NIC as sole respondent (2nd respondent in W.P.No.12750 of 2013 supra) with the prayer as follows:-

> "to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the respondent herein in not disposing and allowing my representation dated 01.12.2014 by following the observations of the Hon'ble State Consumer Forum in F.A.No.1005 of 2013, dt. 25.03.2014 and also in terms of judgment of National Consumer Forum passed in R.P.No.3026 of 2010, dt.29.07.2011 reported in IV(2011)CPJ 142(NC) in United India Insurance Company Limited Vs. Krishna Prakash Dubey forthwith and pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case."

4. The averments in brief of his supporting affidavit to the Writ Petition are that he issued a contempt notice to the NIC on 10.04.2014 to implement the order of National Consumer Disputes Redressal Commission (for short, 'National Commission') in R.P.No.3226 of 2010 to allow his representation and also filed Contempt Case No.1788 of 2014 and after issuing notice, this High Court dismissed the Contempt Case, on 30.03.2015, stating that there is no specific order in the case. It is the further averment that despite letter of the Manager of the Bank, dated 23.08.2014, to the NIC to do the needful in settling the medical claim of the petitioner following the judgment of the State Commission in F.A.No.1005 of 2013, dated 25.03.2013 and the order of the National Commission in R.P.No.3226 of 2010, dated 29.07.2011, the NIC did not oblige, that he has no other remedy except approaching this Court seeking the relief supra and hence to allow the Writ Petition.

C.C.(SR) No.6353 of 2013:

5. This Contempt Case is filed by the self-same petitioner against R.Lakshmi Narasimha Rao and T.Ashok Kumar, Members of the State Commission, Hyderabad, with the averments that he filed F.A.No.142 of 2012 in the State Commission against the orders of the District Consumer Forum-I, Hyderabad, passed in C.C.No.425 of 2012 dated 25.01.2011 raising several grounds and the State Commission was pleased to pass orders on 08.10.2012 after hearing both the parties and with reference to the written arguments and the case F.A.No.142 of 2012 ought to have been allowed as per the principle of law laid

down by the National Commission in the reported judgment **United India Insurance Company Limited Vs. Krishna Prakash Dubey**[1] in R.P.No.3026 of 2010, however, it was ignored and F.A.No.142 of 2012 was dismissed without applying the law laid down by the National Commission in spite of producing the order before the State Commission in the written arguments, for reasons better known, from which the petitioner suffered injustice and after perusing the judgment, he came to know that the Members of the State Commission wantonly dismissed F.A.No.142 of 2012 in favour of the NIC and he made an application to the Advocate General on 05.11.2012 for necessary action or to permit him to proceed to take action against them for contempt and the Advocate General rejected his request by a letter dated 09.11.2012 and he again made a representation to the Hon'ble Chief Justice on 23.11.2012 for which he did not receive any information. He further submits that after perusing said judgment of the State Commission in F.A. No.142 of 2012, he came to know that there is an apparent error crept in and even brought to the notice of the State Commission by a letter through the Registrar along with the judgments of the Apex Court and National Commission stating whenever patent error is brought to the notice of the Court, the Court must allow by reviewing the judgment as per the C.P.C., however, the Hon'ble Members of the State Commission without looking into the same and by quoting some relevant judgments of the Hon'ble Supreme Court, dismissed the same on 09.04.2013 which comes within the purview of the Contempt of Court to issue summons to the respondents (Members of the State Commission) and to punish them for not following the judgments of the Higher Forums in their judgments. Hence, filing the case for no other alternative, thereby seeks to summon the respondents and punish them for contempt and pass such other just orders.

6. There was an office objection by the Registry in returning the

same on 30.09.2013 as to how the CCSR No.6353 of 2013 is entertainable without following due procedure prescribed under Rules 5(d), 9 and 10 of Contempt of Court Rules 1971(for short, 'the Rules'), before filing the Contempt Case and also to furnish the DEB set and miscellaneous bundle with Form-I notice, cover and acknowledgments and for service on other side as per Rule 16 of the Rules, and to provide Court docket for each bundle and duly signed material papers and affidavits and to state how the contempt case against the two Members of the State Commission who are not parties to the proceedings before the State Commission. It was re-presented as all objections complied with, stating not following binding precedents amounts to contempt of Court by a judicial officer and in **B.Mishra Vs. B.Dixit**[2] it was so held and that the Members of the State Commission have deliberately not gone through the judgments of the National Commission in R.P.No.3026 of 2010, dated 29.07.2011 in spite of mentioned in the written arguments by relying on it and that other objections are complied with. The Registry again returned on 21.10.2013 stating the earlier objection Nos.3,5 and 6 are to be complied with properly, service is to be effected on other side, all the material papers are to be duly attested as true copies, leave petition is required to be filed since the respondents/Contemnors are not parties to any proceedings. It was represented stating as per the law laid down in **B.Mishra** supra, contempt case lies and if the Registry is not satisfied with the re-submission of the papers, it may be posted before the Court for orders. Registry again returned with the objections to furnish the particulars of the cases or orders or guidelines that are said to be violated and it is represented as objections complied with. Thereafter, on 02.12.2013, the office objection was upheld after hearing by the Division Bench in the CC(SR) No.6353 of 2013. The matter is listed before us on the Office Objection as to the maintainability of the Contempt Case. Having heard the petitioner, who appeared in person and having perused the material on record, we are of the opinion that, if aggrieved, it is for the petitioner to avail the other remedies open to him to challenge the impugned order, but it is not a matter for taking cognizance under the Contempt of Courts Act. Therefore, the Contempt Case is not maintainable. Accordingly, the Office Objection is upheld.

7. It is practically not a mere return but an order of rejection holding as not at all maintainable. The earlier Advocate on record withdrawn his vakalath on 02.04.2014 and the matter still is coming to call with the Writ Petition No.12750 of 2013 supra thereafter, even after holding same is not maintainable.

8. All the three matters are thus taken up for common disposal on 02.06.2016 and heard at length the petitioner (party in person) and also the learned counsel for the NIC-contesting respondent in the Writ Petition Nos. 12750 of 2013 and 28445 of 2015. Perused the material on record including the provisions and propositions placed reliance.

9. The contract of health insurance is undisputedly a Contract of *Uberrimee Fidei*, meaning thereby the contractual agreement requires utmost good faith, that can otherwise be said the highest standard of good faith and as per which knowledge of the material facts lies with the party who has an obligation to disclose and any failure makes the contract voidable even to justify repudiation as laid down in **LIC of India Vs. Vimala Verma**[3].

10. Apart from the above obligation to disclose material facts, the entitlement of claim mainly depends upon the terms and conditions of the policy of insurance issued concerned. So far as the non-revival of the Health Insurance Policy concerned, there is nothing to compel the Insurance Company by invoking the Writ jurisdiction, and thus the prayer in the Writ Petition No.12750 of 2013 to that extent is liable to be dismissal for no merits.

11. Coming to the medical insurance claim and non-payment of

amount concerned, a perusal of the record shows, the petitioner originally maintained C.C.No.425 of 2011 before the District Consumer Forum–I, Hyderabad. The policy issued by the NIC is undisputedly, dated 26.04.2010, covering three persons for a period of one year i.e. the petitioner, his wife and son for a premium of Rs.4751/- for an assured amount of Rs.3,00,000/-(Rupees three lakhs only) vide policy No.551107/48/10/ 8500000134 which is outcome of the tie up between the Bank with the NIC under group health insurance scheme. It is the case of the petitioner that he had no ailments or complaints or diseases of any nature being hale and healthy even by the date of taking Health Insurance Policy and he did not suppress any fact by taking the policy and the policy also does not provide for undergoing any tests before its issuing and he acted fairly with utmost good faith. However, on 03.05.2010, which is about a week subsequent to the taking of the policy on 26.04.2010, due to sudden giddiness, restlessness and sleeplessness that aggravated, he approached the nearby doctor on whose advise he joined in Kamineni hospital, King Koti, where on ¾.05.2010 and after some tests conducted on 04.05.2010 advised him for further tests, such as PTC and stent to artery valves and the cost since very high, he wanted to go for second opinion and discharged himself therefrom on 05.05.2010 and joined in Sigma Hospital, Secunderabad, where also he was advised for open heart surgery and he accordingly underwent for the same conducted on 11.05.2010 and he was discharged later on 18.05.2010 from the hospital by saved his life successfully.

12. He applied to the NIC and Bank for reimbursement of the total amount of Rs.1,70,000/-(Rupees one lakh seventy thousand only), further amount of Rs.1,00,000/- (Rupees one lakh only) and costs of Rs.10,000/-(Rupees ten thousand only) incurred, with all necessary papers on 14.06.2010. However, his claim was rejected by the NIC invoking clause-4 of the policy terms and conditions, stating he is not entitled to the claim in view of the clause that after

commencement of policy for any cause for claim within one month won’t lie. He therefrom approached the Insurance Ombudsman on 08.09.2010, who directed to approach the Deputy General Manager(for short, ‘DGM’), NIC, and he made a representation to the DGM of NIC, who dismissed his representation confirming the rejection of his claim by the NIC and when he questioned said rejection order on 22.10.2010 before Insurance Ombudsman, same was also rejected on 12.04.2011. According to him said rejections were without application of mind in repudiation of the genuine claim of him, which made him to maintain the claim before the District Consumer Forum-1. The District Consumer Forum after contest from the evidence on record of P.Ws. 1 to 10 and R.W.1 with reference to Exs.A.1 to A.12 and B.1 and 2, dismissed the claim in C.C.No.425 of 2012 which was impugned by him in F.A.No.142 of 2012.

13. The F.A. No.142 of 2012 was dismissed by the two Members Bench of the State Commission “Sri R.Lakshmi Narasimha Rao and Sri T. Ashok Kumar”, vide order dated 08.10.2012, with an observation that the NIC rejected the claim for reimbursement invoking clause 4(2) of the policy from which no claim can be entertained within 30 days from the date of commencement of policy except in case of injury arising out of accident and thereby when the District Consumer Forum dismissed the complaint on contest, there is nothing to interfere.

14. The State Commission for that conclusion referred decisions placed reliance by both sides including of **LIC of India Vs. Jasbeer Singh**[4] where the National Commission held that the insured when not aware of her pregnancy of less than three months at the time of taking policy, repudiation of the policy by the Insurer on the ground of she was pregnant at the time of submitting proposal for Insurance is held not justified for nothing suppressed knowingly and **SBI Health Insurance Company Vs. Mrs. Y.Dayamani** in R.P.No.3375 of 2009 dated 25.05.2010, it is held in deciding the revision filed before the

National Commission against the order of the State Commission where the insured suffered heart attack and the State Commission held heart attack is an accident, whereas, the National Commission reversed the finding holding clearly that heart attack cannot be considered as an accident, unless and until some external violent means or force has applied or has made on it. It was therefrom held by the State Commission in the F.A.No.142 of 2012 that when the policy covers no risk within 30 days from the commencement of the policy, but for sustaining of any injury in an accident, the petitioner's developing giddiness and underwent by-pass surgery from sudden heart complaint cannot be held as sustaining injury in an accident from above expressions even and thereby not entitled to benefits of the policy from the terms of the policy, for the terms and conditions of the policy are binding on both the parties to the contract of insurance and there is no ambiguity, open for interpretation, much less in favour of the insured-petitioner.

15. A perusal of the order of the State Commission supra, thus no way prone for contempt much less to entertain the CC(SR) No.6353 of 2013 and thereby the contempt application is in fact not sustainable to entertain and issue any notice to the alleged contemnors who are the two Members of the State Commission in the order referred supra.

16. In the above background of facts, having went unsuccessful in the District Consumer Forum-I in CC.No.425 of 2011 and also in the State Consumer Commission in F.A.No.142 of 2012 supra, and further attempt by a petition for review in I.A.SR No.704 of 2013 vide order dated 19.04.2013 from the expression of the Apex Court in **Rajiv Hitendra Pathan Vs. Achutrao Kashinath Karekar**[5] unyielded to his expectation, it was therefrom the petitioner filed the W.P.No.12750 of 2013 attacking the Correctness of the orders of the State Commission by mainly relying upon the order of the National Commission in **Krishna Prakash Dubey** supra. A perusal of the

orders supra of the District Consumer Forum and State Commission, the decision of **Krishna Prakash Dubey** supra not at all cited.

17. In this context, it is important to note that, the petitioner filed another C.C.No.3 of 2013 before the District Consumer Forum-II, Hyderabad and maintained a second round of litigation with the self-same averments and for the self-same claim by referring to the first round of litigation.

18. The District Forum-II in C.C.No.3 of 2013, for self-same case and self-same claim and also that the W.P.No.12150 of 2013 is pending in this regard and the Bank and the NIC are contesting the matter by reiterating what was held by the District Consumer Forum-I in C.C.No.425 of 2011 confirmed by the State Commission in F.A.No.142 of 2012 and the same operates as *res judicata* by allowing I.A.No.108 of 2013 deciding against the maintainability by negating the contest of the petitioner in person that the earlier C.C.No.425 of 2011 was dismissed without framing issues or points for consideration and it no way operates as res judicata for such simple dismissal and that the decision of the National Commission in **Krishna Prakash Dubey** supra applies to his case equally though it is the contest by the opposite parties of clause 4(2) of the terms and conditions of the policy issued in favour of the petitioner no way covers the risk to entertain the claim on hand and said judgment of National Commission no way applies apart from that said judgment was not brought to the notice of the District Forum or the State Commission earlier but for now pressing into service.

19. Against the order in I.A.No.108 of 2013 in dismissal of the C.C.No.3 of 2013 as barred by res judicata in its so answering, the petitioner approached by appeal the State Commission in F.A.No.1005 of 2013. The State Commission after notice and hearing held in F.A.No.1005 of 2013 (Hon'ble Presiding Justice Gopalakrishna Thamada and Hon'ble Member R.Lakshmi Narasimha Rao),

dt.25.03.2014 that in the case on hand without referring the complainant to a panel of medical practitioners constituted by the NIC as to whether there is suppression of facts or not, the NIC unilaterally has come to a conclusion that the bypass surgery taken place within thirty days of the policy commenced, the insured cannot claim any compensation for the risk is not covered by the policy. It is further held that said judgment of the National Commission in **Krishna Prakesh Dubey** supra totally comes to the rescue of the appellant, however, the State Commission is helpless for the point involved in the appeal is different on res judicata, when the District Forum dismissed the complaint that was confirmed by the State Commission in the earlier round of litigation, the appellant ought to have approached the National Commission to come to his rescue, but maintained the W.P.No.12750 of 2013 which is pending and as stated supra the earlier order of the District Forum C.C.No.425 of 2011 operates as *res judicata.* Thus, the judgment of the National Commission in **Krishna Prakesh P.Dubey** supra which comes to the rescue of the appellant, thereby cannot be relied and consequently dismissed the appeal F.A.No.1005 of 2013. Accordingly, the present two writ petitions one against F.A.No.142 of 2012 and other against F.A.No.1005 of 2013 are filed pending and heard as referred supra.

20. The ratio laid down by the National Commission in **Krishna Prakesh Dubey** supra to be considered is with reference to the policy terms and conditions therein. Perusal of the judgment of the National Commission in **Krishna Prakesh Dubey** supra speaks from para-6, that is also extracted by the State Commission in the second round of litigation in F.A.No.1005 of 2013, that *"No doubt, as per this Clause a person would not be entitled to indemnification if he contracts the disease as stated during the first 30 days from the commencement of the date of policy, <u>but the note which has the effect of a proviso</u>; clearly states that the exclusion clause will not apply if in the opinion of a panel of medical practitioner constituted by the company for the*

purpose, the insured person could not have known to the existence of the disease or any symptoms or complaints thereof at the time of making the proposal for insurance to the company and further it would also not apply if the insured had not taken any consultation, treatment or medication in respect of the hospitalization for which claim has been lodged under the policy prior to the taking of the Insurance policy". It is therefrom observed by the State Commission in F.A.No.1005 of 2013 of the judgment of the National Commission squarely applies to the appellant herein in saying clause 4(2) of the policy contains a bar within 30 days from the commencement of a policy, however, there is an exclusion to the same and thereby bar of said clause 4(2) shall not apply if in the opinion of a panel of medical practitioners constituted by the Government for the purpose, the insured person would not have known of the existence of the disease or any symptoms or complaints thereof at the time of making the proposal for Insurance.

21. In this case on hand, no doubt, it was the observation of the State Commission in F.A.No.1005 of 2013 to that extent, however, in saying earlier order of the District Forum and State Commission in C.C.No.425 of 2011 and F.A.No.142 of 2012 operates as res judicata but for that which is impugned in the Writ Petition No.22750 of 2013, it could be considered. In this regard, it is the contention of the learned counsel for the NIC that the policy produced by him before the District Forum in the first round of litigation that is already exhibited no way contains such a clause of referring to panel of Doctors for consideration after clause 4 with a note as is in the case **Krishna Prakesh Dubey** supra and the difference in terms of the two policies not noted by the State Commission in so observing even in F.A.No.1005 of 2013. The insurance policy enclosed to the counter filed by the NIC contains the clause 4(2) with no further note to it as part of terms and conditions of the contract of insurance policy. It is needless to say even a little change in the factual scenario will tilt the

result of the case, which is required to be considered in applying precedents or earlier expressions with reference to the principle laid down therein in subsequent expressions. The petitioner though did not submit copy of the policy, contends that there is also such clause as in **Krishna Prakahs Dubey** supra in the policy of the case on hand that was exhibited before the District Consumer Forum in C.C.No.425 of 2011.

22.So far as the Writ Petition No.28445 of 2015 is concerned, from the above there is nothing to sit against the order in F.A.No.1005 of 2013 practically. So far as the W.P.No.12750 of 2013 against the order in F.A.No.142 of 2012 concerned, it is the contention of the learned counsel for the NIC that, once there is an alternative and efficacious remedy of revision to maintain against the order of the State Commission in F.A.No.142 of 2012,the W.P.No.12750 of 2013 won't lie and the policy contains such a clause as in Krishna Prakash Dubey thereby to be decided in the revision if at all to be filed by the petitioner, if aggrieved by the order in F.A.No.142 of 2012. In support of that contention, the learned counsel for the NIC placed reliance on **Om Prakash Saini Vs. DCM Ltd.,**[6] and **Nivedita Sharma Vs. Cellular Operators Association of India**[7] which are the two cases under the Consumer Protection Act, where the Apex Court held that when there is availability of alternative efficacious remedy, the High Court could not have entertained the Writ Petition.

23. The petitioner on the contra placed reliance on the expression in **Shri Ambica Mills Company Limited Vs. Shri S.B. Bhatia**[8] where the 3 Judges Constitution Bench of the Apex Court, referring to earlier expressions, held that Writ of Certiorari under Article 226 of the Constitution of India can be issued by the High Court not only in cases of illegal exercise of jurisdiction, but also to correct errors of law apparent on the face of the record. He also placed reliance on

the expression of **Union of India Vs. Gowhati Carbon Ltd**[9] where it was held that despite availability of alternative efficacious remedy, writ jurisdiction can be exercised where the facts of the case come within exceptional circumstances like the authority not acted in accordance with the provisions of enactment in question or has acted in defiance of fundamental principles of judicial procedure or has resorted to invoke provisions which are repealed or when an order has been passed in total violation of principles of natural justice. The other decision placed reliance is **Union of India Vs. State of Haryana**[10] where the 3 Judges Constitution Bench of the Apex Court, held that when the available alternative remedy is not an adequate remedy, writ petition under Article 226 of the Constitution of India lies to entertain and decide the lis. The other decision placed reliance mainly by the writ petitioner is of **Tumuguntla Enterprises Vs. M.V.R.Muthyalu**[11]**,** where in the C.R.P. maintained against Rent Control matter under Section 22 of the A.P.B(LR & E) C Act,1960, what was considered is the power of revision of High Court including under Article 227 of the Constitution is very limited for not a fact finding Court to decide whether impugned order is according to law or not but to specify to that extent, the impugned order whether suffers from illegality or irregularity; for it shall not exercise any power as appellate Court to appreciate or re-assess the evidence for coming to a different finding on facts including under Article 226 of the Constitution of India, as laid down by the Constitution Bench of the Apex Court in **Hindusthan Petrolium Com.Ltd Vs. Dilbaharsingh**[12]**.**

24. Now coming to the case on hand from above legal position with reference to the facts, the Health Insurance Policy that was exhibited in C.C.No.425 of 2011, whether contains any note for an exemption to order referring of the petitioner to a panel of Doctors for examination, like in the case of **Krishna Prakash Dubey** supra where there is such a note, is the issue. Once same is in dispute and the

policy exhibited in C.C.No.425 of 2011 is not before this Court, it is difficult for this Court to decide the principle laid down in the decision of the National Commission in **Krishna Prakash Dubey** supra squarely applies to the case on hand or not. Even to hold that the petitioner got alternative remedy to maintain revision before the National Commission, the scope of revision is also limited and not like in appeal and ultimately it serves no purpose, but for to remand the matter to the District Consumer Forum-I to decide the lis afresh with reference to the terms of the policy exhibited before it.

25. Having regard to the above, the W.P.No.12750 of 2013 can be disposed of by remanding the matter to the District Consumer Forum-I, Hyderabad.

26. Accordingly and in the result:

a) The W.P.No.12750 of 2013 is allowed to the limited extent of setting aside the order of the District Consumer Forum-1, Hyderabad in C.C.No.425 of 2011 that was confirmed by the State Commission in F.A.No.142 of 2012 and by remanding the matter to the District Consumer Forum-I, Hyderabad, to hear the matter afresh with reference to the terms of the policy already exhibited before it and decide the same as to whether the policy contains any further note like in **Krishna Prakash Dubey** to apply the principle laid down therein, to the case on hand to refer the petitioner to any panel of Doctors to receive report and to decide therefrom, else to observe the difference and dismiss the claim, if there is no such note. There is no order as to costs,

b) W.P.No.28445 of 2015 is dismissed with no costs

and

c) C.C.(SR) is rejected with no costs.

27. Consequently, miscellaneous petitions, if any, pending in the above Writ Petitions and in C.C.(SR) shall stand dismissed.

JUSTICE SANJAY KUMAR

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.29.06.2016
Vvr.

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[1] IV(2011) CPJ 142(NC

[2] AIR 1972 SC 2466

[3] (2011) CPJ 144(NC)

[4] 2003(4)ALT 19

[5] (2011)-CDJ-792(SC)

[6] AIR 2010 SC 2608

[7] 2011 (14) SCC 337

[8] AIR 1961 SC 979

[9] (2012) 11 SCC 651

[10] 2000(1))SCC 482

[11] 2016(2) ALD 763

[12] (2014) 9 SCC 78