THE HON'BLE SRI JUSTICE P.NAVEEN RAO

SECOND APPEAL No. 899 of 2015

Dated : 20.01.2016

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Between:

Life Insurance Corporation of India,

Branch-1, Anantapur Town,

Rep., by its Branch Manager.

.. Appellant

And

Smt K.C.Thulasamma, W/o.K.C.Kesava Reddy,

Hindu, Aged about 52 yrs,

B.Ramasagaram (V), Beluguppa (M),

Anantapur District & 5 others

.. Respondents

This Court made the following :

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JUDGMENT :

The plaintiffs filed suit for recovery of insured amount of the insurance policy taken out by late Sri K.C.Kesava Reddy. The appellant-Insurance company herein is the defendant in O.S.No. 199 of 2008 on the file of Principal Senior Civil Judge, Anantapur, and also appellant before the first appellate Court. The defence taken by the appellant herein is that there was suppression of material fact while obtaining the insurance policy for Rs.1 Lakh on 31.03.2005 and having come to know that by suppressing the material fact, insurance policy was obtained, the appellant repudiated the policy and opposed the claim made by the plaintiffs in the suit. The plea taken by the appellant herein was that the deceased was addicted to alcohol and took treatment in NIMHANS, Bangalore, for de-addiction and soon after taking of policy i.e., within two years he died. Therefore, if the factum that policy holder being addicted to consumption of alcohol and took treatment for de-addiction, was brought to its notice, the policy could not have been issued and this being a vital fact which was suppressed, repudiation is validly made.

2. The trial Court framed the following issues :

1. Whether the defendant has repudiated the claim unjustly without any reasonable ground ?

2. Whether the plaintiff is entitled for suit amount as prayed for ?

3. To what relief ?

3. On hot contest and having found that the contention of appellant about suppression of material fact i.e., the fact of addiction to alcohol policy was obtained was not proved, the same was rejected and suit was decreed.

4. The appellate Court noticed that the procedure as evolved by the insurance company requires medical examination of the policy holder and verification of the health condition of the prospective policy holder by the agent, who introduces the prospective policy holder. It is not disputed that the agent introduced the policy holder and policy holder was examined by the panel of doctors before the policy was issued in his favour. The Court found that the appellant insurance company did not take any action against the agent or the doctors who have examined the deceased/policy holder if what is alleged is true. The appellate Court also noticed that the cause of death was due to heart attack. The first appellate Court also rejected the plea raised by the appellant-Insurance Company and dismissed the appeal.

5. Ordinarily a person who is addicted to alcohol his liver, pancreas and nervous system gets damaged due to over consumption of alcohol. In the instant case there is no material on record to show that there was damage to liver, pancreas or nervous system. The cause of death shown as heart attack was not disputed. There is no proof brought on record that other organs of the deceased were damaged on account of consumption of alcohol.

6. Except for agitating that the trial Court and the appellate Court ought not to have granted relief in favour of the plaintiffs, no other plea is raised. No substantial question of law arises for consideration in this appeal. I see no error in the decisions arrived by Courts below. Hence, appeal is liable to be dismissed.

7. Accordingly, the Second Appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Appeal shall stand dismissed.

__________________ **P.NAVEEN RAO,J**

20th January, 2016.

Rds