

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.15447 of 2014
Date of Decision:-17.10.2016

The Oriental Insurance Company Ltd. and another

..... Petitioners

Vs.

Vishal Pal and another

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Ashwani Talwar, Advocate,
for the petitioners.

Mr.Gopal Sharma, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J.

This petition is directed against the order dated 13.2.2014 by which application filed by respondent No.1 under the Legal Services Authority Act, 1987 (for short 'the Act') has been allowed and the petitioner has been directed to pay ₹3,00,000/- to respondent No.1 within 45 days, failing which it has been ordered to pay interest @ 9% per annum from the date of institution of the application till payment.

In brief, respondent No.1 obtained "Happy Family Floater Policy" [for short 'the Policy'] from the petitioner vide Policy No.215391/48/2013/718, valid from 8.10.2012 till mid night of 7.10.2013, by which as many as six members of the family of respondent No.1 were covered. The sum assured in the policy was ₹3,00,000/- only. Father of respondent No.1 felt severe chest pain on 27.5.2013 and was taken to Sethi

Hospital, Gurgaon where he remained admitted upto 28.5.2013 and due to his critical condition, referred to Medanta Global Health Private Limited, Gurgaon. A sum of ₹12,016/- was incurred on his treatment at Sethi Hospital, Gurgaon and after that he remained admitted in Medanta Health Private Limited, Gurgaon from 28.5.2013 to 2.6.2013 and had coronary angiography on 29.5.2013 which revealed Triple Vessel disease. He also had coronary stenting to RCA on 31.5.2013 on which an amount of ₹3,79,729/- was spent. The total amount spent by respondent No.1 on the treatment of his father Hari Chand was ₹3,91,450/-.

Learned counsel for the petitioner has submitted that the father of respondent No.1 was suffering from pre-existing disease of Hypertension and Diabetes for more than 2 years, therefore, “pre-existing condition” of the Policy has to be applied. He has relied upon the preliminary report of Medanta Health Private Limited, Gurgaon in which it is mentioned in the medical history that the patient is a known case of hypertension and diabetes. However, the Permanent Lok Adalat has rejected this argument observing that there is no document or prescription supplied/produced by the petitioner to show that prior to the commencement of Policy dated 8.10.2012, Hari Chand father of respondent No.1, was suffering from the alleged disease and therefore, exclusion of clause ‘pre-existing disease’ is not attracted.

Learned counsel for the petitioner has submitted that the observation of the Medanta Health Private Limited, Gurgaon in its preliminary report observed that the patient is known case of hypertension and diabetes which is sufficient to presume that the father of respondent No.1 was suffering from it in the past but no evidence has been brought on

diabetes before the Policy was taken. In the absence of any cogent evidence brought on record by the petitioner, the observation of the Medanta Health Private Limited, Gurgaon in which it is only mentioned that it is a known case of hypertension and diabetes, no benefit can be given to the petitioner as it goes to the patient.

Thus, in view of the aforesaid, I do not find any merit in the present petition and the same is hereby dismissed.

17.10.2016
Vivek

(RAKESH KUMAR JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>