IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16467 of 2016

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Nilam Devi W/o Late Vijay Thakur, R/o At + P.O.- Manibhakarahar, P.S.- Sarai, District- Vaishali.

.... Petitioner/s

Versus

1. Life Insurance Corporation of India Through its Chairman, Yogakshama, Jeevan Bima Marg, P.B. No. 19953, Mumbai.
2. The Chairman Life Insurance Corporation of India, Yogakshama, Jeevan Bima Marg, P.B. No. 19953, Mumbai.
3. The Lokpal, L.I.C. East Zone, Kolkata.
4. The Regional Manager, L.I.C. East Central Zonal Office, Exhibition Road, Patna.
5. The Senior Divisional Manger, L.I.C. Patna.
6. The Branch Manager, L.I.C. Hazipur, District- Vaishali.
7. The Assistant /Dy. Secretary, office of Insurance Ombudsman, Kalpana Arcade, Ist Floor, Bazar Samiti Road, Bahadurpur, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Adv.
For the Respondent/s : Mr. Rajeev Ranjan Prasad, Adv.
Mr. Sudhanshu Trivedi, Adv.
Mr. Abhisek Singh, Adv.
Mr. Abhimanyu Vatsya, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-02-2017

Heard learned counsel for the parties.

In the present case, the petitioner has sought a relief for quashing the letter dated 9.9.2014 issued by the Senior Divisional Manager, Life Insurance Corporation of India (herein after to be referred to as "the L.I.C."), Patna, whereby and whereunder, the claim of the petitioner against the Policy No. 538433773 for amount of Rs. 2,50,000/- along with 15% interest against the life of the husband of the petitioner has been repudiated.

The husband of the petitioner was a Constable in the C.I.S.F. since 12.3.1992, has purchased L.I.C. policy as aforesaid for the amount mentioned above. Accordingly, the L.I.C. bond was issued to him. In token of the same, the life of the husband of the petitioner was ensured for the aforesaid amount. Time to time, the premium was accepted by the L.I.C.

The husband of the petitioner was working at Bokaro Steel Plant, Jharkhand, all of a sudden, he suffered the attack of diarrhea on 8.6.2012 and admitted at local hospital in Bokaro from where the husband of the petitioner was referred on 12.06.2012 to General Hospital, Bokaro where the husband of the petitioner died on 24.06.2012 in course of treatment but, different cause of death has been mentioned in the death certificate which reads as Hypoglycemia, Brain Damage, Type-2 DM, Diabetic Foot left side, during life by symptom investigation known diabetic for 12 years, hypoglycemia for last 5 years. So the statement given in the writ application is just incompatible to the death certificate attached with the writ application. In the representation made to the Chief Manager, L.I.C., Hajipur (Vaishali), the petitioner has also mentioned that her husband had died on account of brain hemorrhage. After the death, she applied for release of L.I.C. amount of her husband but, the claim of the petitioner has been repudiated on the ground that the petitioner has provided wrong information at the time of coverage of life under the L.I.C. and, on that account, the L.I.C. refused to release the said amount, whereafter, the present petitioner has filed an application challenging the ground for rejection having said that the husband of the petitioner was not ill for last 12 years as he was discharging his duty satisfactorily and the statement that has been made by the doctor has been recorded wrongly as a query was made by the Doctor in English whereas she knows only Hindi. Different applications have been filed including an application under the Right to Information Act. Even she has approached to the L.I.C. Ombudsman situated at Kalpana Arcade Building, Bazar Samiti Road, Bahadurpur, Patna. She participated in the proceeding but would not obtain favourable order.

A counter affidavit has been filed by the L.I.C. wherein a specific plea has been taken that the petitioner was suffering from Hyper Tension as well as the petitioner had also type-2 diabetes, the cause of death is brain hemorrhage and diabetes. It has further been stated that the husband of the petitioner was suffering from number of ailments such as diabetes (type-2) for last 12 years, on that account, he used to take leave from the service frequently and disputed the claim that the husband of the petitioner was fit and never went for treatment to any doctor or hospital which is also completely incorrect.

In support of the contention, the Insurance Company has attached the medical certificate, the cause of death has been shown as brain hemorrhage, was suffering from diabetes and further stated that an appeal filed by the petitioner was also rejected vide letter dated 21.4.2015.

I.A. No. 453 of 2017 has been filed challenging the letter dated 7.9.2016, wherein, the Ombudsman has rejected the claim of the petitioner having recorded "time barred".

On the direction of this Court, the L.I.C. has produced the proposal form which bears the signature of the husband of the petitioner. Though from the record it shows signatures of the policy holder, namely, Vijay Thakur, the husband of the petitioner at different places, the column no.11 of the proposal form stipulates the details with regard to physical fitness of policy holder. In every column, it has been stated that he had no type of any disease and has keeping good health. As nowhere in the writ application it has been said that the information which was mentioned in the proposal form was filled up without any query by the person who filled up the same and it has nowhere stated that who was the third person who filled up all the information relating to the proposal form.

Learned counsel for the petitioner submits that as all the statements with regard to proposal form was filled up by the third person, the ailment which has been mentioned in the certificate is completely far from truth.

Learned counsel for the L.I.C. has placed reliance on the judgment in the case of ***Mithoolal Nayak Vs. Live Insurance Corporation of India*** reported in ***AIR 1962 SC 814*** wherein the Hon'ble Apex Court has held that if the policy has been obtained without disclosure of the correct statement will amount to commission of fraud disentitles the person of insurance benefit. In the case of ***Mrs. Maniluxmi Patel and Anr. Vs. Hindustan Co-operative Insurance Society Ltd. & Anr.*** reported in ***AIR 1962 Calcutta 625*** wherein in paragraph no.68, the Hon'ble Calcutta High Court has held that the person who has filled up the information on the basis of statement of the deceased will be treated to be his agent and the Court held that having disclosed incorrectly had obtained policy of United India Life Assurance Company, if correct statement having been disclosed, his proposal was not accepted on the usual terms and the agent did not mention these facts in the proposal form, the Court has said that how the agent's knowledge could be imputed to the Assurance Company. This judgment is not applicable to the fact of this case as that was a matter arising from the suit, all the facts were recorded during trial but, this opportunity is not available to this Court for adjudication in the matter but, however, the fact is that the information which was required to furnish by the petitioner cannot be said to be correct information supplied to the Insurance Company as the lady herself filed an application where a specific statement has been made that her husband had died on account of brain hemorrhage, inasmuch as, the certificate which was attached with the claim application supplied by the doctor of Bokaro Steel City, details of the ailments have been mentioned. It has further been mentioned that the husband of the petitioner was a chronic sugar patient and was suffering from Hypoglycemia.

Having all sympathy to the petitioner, this Court is not in a position to grant relief to her, inasmuch as, in the petition, a wrong information has been mentioned which is completely incoherent to the statement made in the certificate.

This Court does not find any merit in this writ application and, accordingly, the same is rejected.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2017
Transmission Date	