

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 2603 of 2017

Date of Decision: February 13, 2017

New India Assurance Co. Ltd.

.....Petitioner

Vs.

Presiding officer and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Vinod Gupta, Advocate
for the petitioner.

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M.M.S. BEDI, J.

Petitioner is an Insurance Company. It has invoked the writ jurisdiction of this Court under Articles 226/ 227 of the Constitution of India for quashing of the order annexure P-3 dated July 22, 2016.

The grievance of the petitioner is that respondent No.2 had purchased medi-claim policy for him and his wife for a period from April 17, 2015 to April 16, 2016 but on July 15, 2015, respondent No.2 suffered pain in his lungs and was admitted in Maharaja Aggarsain Hospital, Rohtak Road, Delhi wherein he remained admitted upto July 26, 2015. He remained in private room. He informed the petitioner Company after the incident and

was assured that the amount spent by him would be disbursed to him. On July 27, 2015, the hospital charged him with final bill of Rs.1,74,330/-. A bill of Rs.1,08,960/- was passed but a sum of Rs.65370/- was not paid on the ground that respondent No.2 remained admitted in private room for which there was no provision in the policy to pay for the room rent. The Permanent Lok Adalat for Public Utility Services vide order dated July 22, 2016 has awarded the said amount.

Learned counsel for the petitioner has vehemently contended that as per clause 3.1 (a), 1 (b), 3.1 (c) and 3.1 (d) of the policy, respondent No.2 is not entitled to the claim as the liability of the petitioner Company is for all the claims admitted during the period of policy and will only be covered upto the sum insured for which the insured person is covered, as per schedule of the policy and that the insurance Company is not liable for the claims in excess of the aggregate of the sum insured and cumulative bonus buffer.

With the assistance of counsel for the petitioner, I have gone through the clauses of the medi-claim policy, annexure P-1. The same have been dealt with by the Permanent Lok Adalat in the following manner:-

“7. After hearing the arguments of the ld. Counsel for the parties and going through the case file, it is clear from the plea of the applicant that at the time of issuance of the insurance policy, the respondents did not supply the terms and

conditions of medi-claim 2012 policy nor disclosed about the same orally to the applicant, stands established. In this regard, the applicant has specifically mentioned in paras No.1 and 3 of his application that at the time of issuance of the said policy, the respondents did not supply the terms and conditions of the insurance policy nor disclosed the same but in corresponding paras No.1 and 3 of their reply, the respondents did not deny this fact specifically meaning thereby they have admitted the said plea of the applicant. It is a settled proposition of law that if a fact alleged by one party is denied evasively and not specifically denied by the opposite party, then the same is presumed to be admitted by the opposite party. Thus, the respondents could not take shelter of sub-causes 3.1 (a) to 3.1 (d) of clause 3 of medi-claim policy (copy annexure R-1) as the same cannot be said to be applicable on the applicant particularly when these provisions of the policy were not supplied nor disclosed to him at the time of issuance of this policy. So, the deductions made by the respondents towards room rent etc. as per

the sub-clause 3.1 (a) to 3.1 (d) of clause 3 of the said policy, cannot be said to be correct.

8. Since out of the expenditure of Rs.1,74,330/- incurred by the applicant during his treatment, ambulance charges and medicines etc., he was paid Rs.1,08,960/- only and that the remaining amount of Rs.65,370/- was not paid by the respondents, therefore, the applicant is held entitled to recover the amount of Rs.65,370/- along with interest @ 9% p.a. w.e.f. 26.7.2015 till its realization.”

I do not find any infirmity in the above said order but I am of the opinion that the interest element is not permissible as per insurance policy. So far as the claim of Rs.65,370/- is concerned, the order of the Permanent Lok Adalat, Public Utility Services, Panipat dated July 22, 2016 is upheld but it is held that the interest will not be payable as there does not appear to be any agreement regarding the same in the policy.

Dismissed with the above modification.

February 13, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.