

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

**RSA No. 791 of 2015
Date of decision : 30.10.2017**

Life Insurance Corporation ...Appellant

versus

Mrs. Tanu Trehan ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Puneet Sharma, Advocate
for the applicant-appellant

RITU BAHRI, J.

C.M. No. 2359-C-2015

For the reasons mentioned in the application, delay of 72 days
in re-filing of the appeal is hereby condoned.

The application stands disposed of.

R.S.A No. 791-2015

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiffs-appellant (herein after to be referred as 'the respondents') for recovery, was dismissed.

Brief facts of the case are that the appellant is a Corporate Body and has its Divisional Office at Model Town Road, Jalandhar. Gaurav Trehan (husband of the defendant-respondent) got jeewan plus policy bearing policy No. 132280441. At the time of taking the policy, proposal form was signed by Gaurav Trehan and on its basis, the appellant believed

his answer in the proposal form and on the basis of that, the policy was issued. The policy was to commence from 13.05.2006 and as per information given by husband of the respondent, Gaurav Trehan died on 18.07.2007. At the time of submitting the proposal form, Gaurav Trehan stated in the proposal form that he did not consult a medical practitioner for any ailment requiring treatment for more than a week and that he was never admitted in any hospital for any treatment, he never suffered ailment pertaining to liver, stomach, heart, kidney, brain or nervous system, diabetes, tuberculosis, high or lower blood pressure, cancer, epilepsy, hernia etc. The respondent informed that her husband died on 18.07.2007 and submitted claim form B (3784) and claim form B-I (3816) after getting them duly filed from Dr. Nidhi Gupta. As per respondent, Gaurav Trehan was suffering from disease known as Non-Hodgkins Lymphoma Stage 4th A (Cancer). Doctor of PGI has certified that he was suffering from this disease since 2005 and also was admitted in the hospital on 16.07.2005 and died on 18.07.2007. But he did not disclose about his ailment at the time of taking policy and further suppressed the material facts about his ailment and as such, the policy was taken by misrepresentation and he was not entitled to take any benefit as the contract was void *abinitio*. The appellant repudiated the claim vide his letter dated 28.11.2008 as such the respondent was not entitled for the claim of Rs.1 lac. She was entitled for an amount of Rs.44,892/-, which was paid to her and an amount of Rs.1 lac was paid in excess to the respondent due to overlooking the fact when the amount was sent to the respondent.

Both the Courts below dismissed the suit of the appellant on the ground that in the year 2006, it could not be ascertained that insured had the knowledge about the disease cancer because such disease cannot be detected at its earlier stage. The official of the appellant scrutinized all the documents filled by the claimant and released the amount after thorough enquiry. There was no concealment on the part of the insured.

It is not in dispute that Gaurav Trehan got the insured policy of the appellant vide Ex P1 commencing from 13.05.2006 and at the time of taking the policy, he furnished the information regarding his state of health and he died on 18.07.2007 in PGI, Chandigarh. After his death, respondent put her claim with regard to said policy and the appellant after verifying the documents and medical record from the concerned hospital made the payment to the respondent.

Thus, the suit of the appellant for recovery has rightly been dismissed by both the Courts as before the death of Gaurav Trehan, he did not know about the disease cancer, as it cannot be detected at a very early stage.

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

30.10.2017

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No