

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.24431 of 2009

Date: 09.08.2018

Between :

J.K. Raju @ Shakthi

... Petitioner

And

The United India Insurance Company Ltd. and another.

... Respondents

COUNSEL FOR PETITIONER : Mr. M. Rajamalla Reddy

COUNSEL FOR RESPONDENTS : Mr. Suri Sravan Kumar,
SC for R1

Mr. V. Krishna Mohan for R2

THE COURT MADE THE FOLLOWING:

ORDER : (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed for issue of *Mandamus* to set aside the order dated 23.07.2009 in First Appeal No.415 of 2004 on the file of the National Consumer Disputes Redressal Commission, New Delhi (for brevity "the National Commission").

The petitioner, who claims to be a Film Artist, met with a serious accident. He claimed insurance from respondent No.1 – Insurance Company as he subscribed for Janata Personal Accident Insurance Policy (for short "the Insurance Policy"). As respondent No.1 has repudiated his claim on the ground that he did not satisfy Clause-10 of the Insurance Policy, the petitioner approached the State Consumer Disputes Redressal Commission, Hyderabad (for short "the State Commission"). By its order dated 30.06.2004, the State Commission has allowed C.D.No.147 of 2001 and directed respondent No.1 to pay a sum of Rs.5,00,000/- together with interest @ 9% per annum from the date of repudiation till the date of realisation together with costs of Rs.2,000/-.

Feeling aggrieved by the aforementioned order, respondent No.1 filed appeal in F.A.No.415 of 2004 before the National Commission. By its order dated 23.07.2009, the National Commission has allowed the appeal and set aside the order of the

State Commission. Feeling aggrieved by the said order, the petitioner has filed the present writ petition.

We have heard Sri M. Rajamalla Reddy, learned counsel for the petitioner and Sri Suri Sravan Kumar, learned Standing Counsel for respondent No.1.

This case involves interpretation of Clause-10 of the Insurance Policy. The relevant portion of the clause reads as under:

“..... then the Company shall pay the insured the sum hereinafter set forth, that is to say.....

.....
.....

(d) if such injury shall within six calendar months of the occurrence be the sole and direct cause of permanently, totally and absolutely disabling the insured from engaging or being occupied with or giving attention to any employment or occupation of any description whatsoever the capital sum insured state in the Schedule.”

From the clear and unambiguous language of the above reproduced clause, it is clear that to be entitled to claim compensation under the Insurance Policy, the insured must have permanently, totally and absolutely got disabled from engaging or being occupied with or giving attention to any employment or occupation of any description whatsoever. These words necessarily mean that the disablement should not only be in the field chosen by the insured, but also in respect of any employment or occupation of

any description whatsoever. The clause is so broadly worded that the disability should result in complete invalidation of the insured rendering himself useless for taking up any employment or occupation. Such being the purport and gamut of Caluse-10, the State Commission, however, tinkered with the said clause and interpreted to mean that disablement must be relating to any profession or occupation specially related to the field in which the insured is skilled.

We are afraid, such an interpretation amounts to re-writing the clause of the Insurance Policy, which is not permissible for any Court or Forum to indulge in. In our opinion, the National Commission has rightly set aside the order of the State Commission and, therefore, we find no reason to interfere with the same.

In the result, the writ petition is dismissed. No order as to costs.

As a sequel to the dismissal of the writ petition, Interim order dated 12.11.2009 is vacated and WPMP.No.31769 of 2009 shall stand closed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

09.08.2018.

Msr

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