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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9651 of 2017 (O&M)
Date of decision:17.07.2018

Star Health & Allied Insurance Co. Ltd. & another ...Petitioners

Versus

Permanent Lok Adalat (Public Utility Services), Jind & others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Nitesh Sanghi, Advocate,
for the petitioners.

Mr. M.K.Mittal, Advocate,
for respondent no.2.

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Rakesh Kumar Jain, J. (Oral)

The petitioner has challenged the order dated 23.11.2016 passed by the Permanent Lok Adalat (Public Utility Services), Bhiwani, Camp Court at Jind (hereinafter referred to as the "Permanent Lok Adalat"), by which the application filed by respondent no.2 under Section 22-C of the Legal Services Authority Act, 1987 (hereinafter referred to as the "Act") has been allowed.

In brief, respondent no.2 along with his family members obtained a Family Health Optima Insurance Policy No.P/211119/01/2014/001738 dated 16.03.2013 for a sum of ₹5 lakhs. The said policy was renewed in the year 2014. The petitioner fell ill and was admitted in Max Health Care Super Specialty Hospital, Mohali on 09.06.2014. He was diagnosed with dilated cardiomyopathy, i.e. enlargement of heart due to which it cannot pump the blood effectively. Respondent No.2 spent an amount of ₹9,26,040/- on his treatment and applied for the insured amount from the Insurance Company and

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since it was not paid, therefore, filed the aforesaid application before the Permanent Lok Adalat. The petitioners contested the application on the ground that respondent no.2 was though admitted in hospital on 09.06.2014 but as per the record, he was a known case of dilated cardiomyopathy for the past one and half years prior to the inception of the policy in question. The petitioners communicated the rejection of the claim to the hospital as well as respondent no.2. The case of the petitioners is that as per the consultation letter dated 12.05.2014 from AIIMS, the insured was diagnosed with dilated cardiomyopathy for the past one and half years and at the time of inception of the policy dated 16.03.2013, respondent no.2 did not disclose his medical history in the proposal form, therefore, amounts to misrepresentation/non-disclosure of material facts on account of which the Insurance Company is not liable.

The sole issue before the Perament Lok Adalat was as to whether the petitioners were justified in rejecting the claim of respondent no.2 vide letter Ex.R8/R4 dated 31.10.2014. The Permanent Lok Adalat has observed that respondent no.2 fell ill after one year and three months as he had obtained the policy on 16.03.2013 and was admitted to hospital on 09.06.2014 and before that, he did not suffer from any symptom of dilated cardiomyopathy. Thus, the Permanent Lok Adalat has allowed the application filed by respondent no.2 vide the impugned order dated 23.11.2016.

The only argument raised by the counsel for the petitioners is that when respondent no.2 was admitted in hospital due to breathlessness and pain as he had suffered cervical spondylitis, at that time he was diagnosed with dilated cardiomyopathy since one and half years.

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On the other hand, counsel for respondent no.2 has submitted that respondent no.2 was not admitted because he was suffering from heart disease rather he made a complaint of cervical spondylitis but the Max Hospital, where the petitioner was ultimately admitted and taken the treatment, categorically mentioned that *"Date of onset of illness with duration:April-2014"*.

It is not the case of the petitioners that respondent no.2 had been admitted in the hospital for the treatment of any heart disease one and half years back, therefore, it cannot be presumed that he was suffering from a heart disease at that time. The heart disease occurred only in the year 2014 and immediately in June, 2014, he was admitted to hospital.

Otherwise, counsel for respondent no.2 has submitted that the order of the Permanent Lok Adalat has already been executed and a direction has been issued by the Executing Court on 16.07.2018 to release the amount of ₹6,72,000/- in favour of respondent no.2.

In view of the aforesaid facts and circumstances, I do not find any reason to interfere in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

July 17, 2018 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No
Whether Reportable: Yes/No