IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RA-LP no.18 of 2017
in/and LPA no. 1971 of 2016
Date of Decision : 25.05.2018

Royal Sundaram Alliance Insurance Co.Ltd.

....Appellant(s)

Versus

Gurudayal and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE SHEKHER DHAWAN

Present : Mr.Amit Jain, Advocate for the applicant(s)

Mr.Deepak Vashisht, Advocate for respondents no. 1 to 3

Mr. Rajbir Singh, Advocate for respondent no.4

MAHESH GROVER, J.(ORAL)

Reply to the application has been filed in the Court today and the same is taken on record. A copy thereof has been supplied to the counsel opposite.

The instant Letters Patent Appeal was decided on 30.11.2016 entitling the respondents to the benefit of the insurance – Safe Loan Shield Policy.

The matter was carried to the Hon'ble Supreme Court where the present applicant raised a plea that this Court had failed to take into consideration relevant documents that would disclose the ailment of the insured and concealment of the fact from the Insurance Company at the time of drawing the policy.

Hon'ble Supreme Court vide its order dated 9.3.2017 permitted the present applicant to file a review petition by bringing to our notice the said documents. We may issue notice to the non-applicants who have put in appearance and with the assistance of the parties, we have gone through the records.

After hearing learned counsel for the parties, we are of the opinion that our order needs to be reviewed considering the fact there is on record Annexure A-4 dated 26.2.2015 indicating the treatment of the insured for HIV. The treatment is from specialized HIV care centres which go by the name of ART. This would indicate the knowledge to the insured about his ailment. In the discharge certificate the cause of death has been described as LRT, Sepsis HIV positive. A perusal of the form of insured would suggest that the insured had not disclosed this fact in the particulars submitted to the Insurance Company. Against the column number existing disease, the column has been left blank. The policy was drawn on 17.3.2015 and unfortunately the insured succumbed to his ailment on 22.4.2015, barely a month after the policy was taken up.

A cumulative effect of this is that the Insurance Company was kept in dark about the ailment of the insured which would entitle them to deny the claim of the respondents. We, therefore, recall our order dated 30.11.2016 and accept the review application filed by the Insurance Company. Consequently, main Letters Patent Appeal is allowed. Since the applicants have been able to justify the delay as they have gone to the Hon'ble Supreme Court resulting in a permission to file a review application, which was done within 30 days of the passing of the orders of the Hon'ble Supreme Court, we treat it as a justifiable ground and condone the delay in filing the review application.

(Mahesh Grover)
Judge

25.05.2018 **(Shekher Dhawan)**
rekha **Judge**
Whether speaking/reasoned Yes/No
Whether reportable Yes/No