THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.09.2019
CORAM
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.39622 of 2005
and
W.M.P.No.42464 of 2005

B. Mangaiyarkarasi ... Petitioner

/vs/

1. The Chairman,
Life Insurance Corporation of India,
Yoga Kshema,
Jeevan Bima Marg,
Mumbai - 400 021

2. The Zonal Manager,
L.I.C, of India,
102, Anna Salai,
Chennai 600 002.

3. The Senior Divisional Manager,
L.I.C. of India,
Divisional Office (76)
Trichy Road, Coimbatore 641 018.

4. The Branch Manager,
L.I.C of India,
13, Railway Station Road,
Erode South Branch(76C),
Erode - 638 001,
Erode District ... Respondents.

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certitiorarified Mandamus to call for records of the third respondent comprised in the impugned order of rejection issued by the third respondent in his Ref.Claims/R.No.989 dated 09.12.2004, in respect of the petitioner's claim R.No.989, and quash the said rejection order and consequently directing the respondents to pay and disburse the policy amount of Rs.1,50,000/- under claim R.No.989 relating to the petitioner's late husband/Insured, viz., A.Balakrishnan, within a time to be stipulated by this Court.

For Petitioner : Mr. G. Thangavel
For Respondents : Mrs. Usha Ramman

O R D E R

This writ petition has been filed challenging the order passed by the respondents-Life Insurance Corporation, rejecting the claim of the petitioner on the ground of suppression of some vital information.

2. According to the petitioner, her husband Balakrishnan has taken LIC policy in No.701182356 under the Jeevan Sanchay Plan and he has also paid the premium periodically. Thereafter, he expired on 03.03.2004. The petitioner, being the wife of the deceased, has made a claim for payment of the premium, her claim has been repudiated on the ground that the life assured had suppressed the material information at the time of filling up the proposal form, hence she is not entitled for any amount. Now, challenging the said order, the present writ petition has been filed.

3. The respondents have filed a counter affidavit stating that petitioner's husband has taken a policy under Jeevan Sanchay Plan under Policy No.701182356. After the death of the assured, the amount has to be disbursed to the petitioner. However, earlier the petitioner's husband has submitted an proposal for Jeevan Sanchay Plan before the Erode South Branch. The said proposal was not accepted by the Zonal Officer due to the proposer's poor health condition which is classified under "Substandard life". But, in the present policy proposal form, the petitioner has suppressed the above material information. Hence, under Section 45 of the Insurance Act, the claim of the petitioner is liable to be repudiated. In these circumstances, the impugned order has been passed rejecting the petitioner's claim.

4. I have heard both sides and perused the materials available on record.

5. Admittedly, the petitioner's husband has taken a policy under Jeevan Sanchay Plan and the amount also disbursed to the petitioner. So far as the present policy is concerned, while filing the proposal the petitioner's husband has suppressed the fact that similar proposal on earlier occassion made by him has been rejected by another branch of the respondent-Corporation. The copy of the proposal has also been produced before this

Court. Coloumn No.8 in the proposal reads as follows:

8. Has a proposal(or an application for revival of policy) on your life made to any office of the Corporation or any Insurance Company ever been	Answer 'Yes' or ' No'
(a) Withdrawn, deferred, dropped or declined?	No
(b) Accepted with Extra Premium or Lien?	No
(c) Accepted on terms otherwise than those proposed ?	No

6. It reveals that the petitioner's husband has suppressed the earlier rejection by the respondent-Corporation. Considering the fact that the petitioner's husband has suppressed the rejection of earlier proposal, the claim of the petitioner is liable to be rejected under Section 45 of the Insurance Act. I find no illegality in the order passed by the respondents-Corporation.

7. It is submitted that the respondent-Corporation has accepted the proposal and also received the premium to the extent of Rs.77148/- and the same is still with the respondent-Corporation. In view of the repudiation of the claim, the petitioner is entitled to get back the premium amount paid by her husband, and now the respondent-corporation cannot deny to repay the amount to the petitioner.

8. Hence, the respondents are directed to return the premium amount paid by the husband of the petitioner in respect of the Policy No.701182356 together with interest at the rate of 7% per annum from the year 2004 to the petitioner till the date of payment, and the respondents are directed to repay the same within a period of six weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

mrp

To

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Erode District

+1 cc to M/s.G.Thangavel advocate sr 80868
+1 cc to M/s.Usha Raman Advocate sr80311

W.P.No.39622 of 2005

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