IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11192-2015 (O&M)
Date of Decision: March 19, 2019

Aegon Religare Life Insurance Company Ltd ... Petitioner

vs.

Union of India and others .. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rahul Srivastava, Advocate for
Mr. Vikram Punia, Advocate
for the petitioner.

Mr. Arun Gosain, Advocate
for respondent No.1.

None for respondent No.2.

Mr. S.K. Rana, Advocate
for respondent No.3.

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ARUN MONGA, J

The present petition has been filed, *inter alia,* for issuance of a writ in the nature of *certiorari* to quash an award dated 20.08.2014 (Annexure P1) passed by the Insurance Ombudsman, Chandigarh. Thereby, a direction has been given by the Ombudsman to the Insurance Company to make the payment against the death claim of the deceased-husband of respondent No.3, as per her entitlement, in accordance with the policy purchased by her husband.

2. Succinctly, the factual background is that respondent No.3, widow of deceased-Rajinder who died on 19.04.2012, filed a death claim before the petitioner-Aegon Religare Life Insurance Company Limited qua life insurance policy No. 120313486016 purchased by her husband. The claim of the widow

was repudiated vide letter dated 30.06.2012 (Annexure P4) on the ground of non-disclosure of material facts viz.

(a). misrepresentation of income
(b). misrepresentation of occupation.

3. The said repudiation was challenged before the Ombudsman under the redressal of Public Grievances Rules, 1988 (for short 'Rules') which led to passing of an award which has been assailed in the present writ petition.

4. I have gone through the rival pleadings and heard learned counsels of both the parties and I am of the view that there is no infirmity in the impugned award dated 20.08.2014 (Annexure P1) and the same does not require any interference by this Court.

5. Learned counsel for the petitioner argues that the award under challenge suffers from illegal infirmity and is *ex-facie* liable to be set aside on the ground that prior to filing the complaint before the Ombudsman, respondent No.3/widow was required to submit a representation before the Insurance Company. He further submits that since no representation, as envisaged under Rule 13 of the Rules, ibid, was given by respondent No.3, therefore, the Ombudsman could not have invoked its jurisdiction. For ready reference, Rule 13 of the said Rules is reproduced herein below:-

> ***Manner in which complaint is to be made :-***
>
> *(1) Any person who has a grievance against an insurer, may himself or through his legal heirs make a complaint in writing to the Ombudsman within whose jurisdiction the branch or office of the insurer complaint against is located.*
>
> *(2) The complaint shall be in writing duly signed by the complainant or through his legal heirs and shall state clearly the name and address of the complainant, the name of the branch or office of the insurer against which the*

> *complaint is made, the fact giving rise to complaint supported by documents, if any, relied on by the complainant, the nature and extent of the loss caused to the complainant and the relief sought from the Ombudsman.*
>
> *(3) No complaint to the Ombudsman shall lie unless:-*
>
> *(a) the complainants had before making a complaint to the Ombudsman made a written representation to the insurer named in the complaint and either insurer had rejected the complaint or the complainant had not received any reply within a period of one month after the insurer concerned received his representation or the complainant is not satisfied with the reply given to him by the insurer.*
>
> *(b) the complaint is made not later than one year after the insurer had rejected the representation or sent his final reply on the representation of the complainant; and*
>
> *(c) the complaint is not on the same subject matter, for which any proceedings before any court, or Consumer Forum, or arbitrator is pending or were so earlier.*

6. A perusal of above rule reflects that the same is infact for the benefit of the insured to avoid any needless litigation. It envisages that unless the claim of the insurance has been rejected or despite written representation given by the insured/complainant, no reply has been received within one month, the Ombudsman shall not entertain the complaint.

7. Having perused the above rule, I am of the opinion that the same, in any case, is directory in nature and not mandatory. The intent of the above rule is that the insured ought to approach the insurance company before straight away invoking the jurisdiction of Ombudsman.

8. In the present case, the death claim was submitted before the Insurance Company vide prescribed application form dated 17.05.2012 which was received on 21.05.2012 by the Insurance Company. Thereafter, vide letter dated 30.06.2012, the said application form for death claim was expressly

rejected, which led the respondent No.3 to file a complaint before the Ombudsman.

9. The argument of learned counsel for the petitioner, that the Ombudsman could not have entertained the complaint since respondent No.3 did not approach the Insurance Company by way of a representation flies in the face of Clause 12 of the Insurance Policy, which is extracted herein below:

> ***Grievance Redressal***
>
> *"Any grievance can be addressed to the Company in any one of the following manner:-*
>
> - ***By calling on the Toll Free Number*** *18002099090 between 8:00 a.m. to 8:30 p.m. any day or*
> - ***By writing e-mail at customer care*** *@ aegonreligare.com or*
> - ***By registering the grievance on the website*** *at www.aegonreligare.com or*
> - *By a written notice at the registered office of the Company.*
>
> *In case of disagreement with the response of the Company or no response the grievance can be made to:*
>
> - *grievance.manager@aegonreliare.com or*
> - ***Writing to the Insurance Ombudsman.***
>
> *The Procedure for making complaint to Insurance Ombudsman and address of the offices of Insurance Ombudsman can be obtained from the offices of the Company or from the website of the Company at www.aegonreligare.com or from IRDA website at www.irda.gov.in."*

10. A perusal of the above Clause shows that there is not even a whisper that in case the insured/legal heirs has any grievance then he/she has to give a representation to insurance company, prior to filing a complaint before the Insurance Ombudsman. The above Clause clearly states that the

procedure for mitigation of grievance is that the insured can directly approach either by writing to Ombudsman or send an email to the Insurance Company or call them on their toll-free number.

11. In view of the above, the present writ petition is dismissed with no orders as to costs.

12. Since, respondent No.3 has been made to suffer for no fault of her, the petitioner-Insurance Company is directed to process her claim within a period of two months from the date of receipt of certified copy of this order alongwith interest @ 9% per annum w.e.f. 30.06.2012, when her claim was repudiated till its actual payment.

March 19, 2019 **(ARUN MONGA)**
smriti **JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No