IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P. No. 31824 of 2013
and
M.P. No. 1 of 2015

P.Deepika ...Petitioner

Vs

1.The Executive Director (Mktg)
L.I.C. Of India - Central Office
Mktg./CRM/CRC Dept.
Yogakshama
Mumbai - 400 021.

2.The Senior Divisional Manager
LIC of India
Trichy Road
Coimbatore - 641 018. ... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent dated 20.06.2013 in Claim No. 1727 and 1728 / 760, confirming the orders of the second respondent dated 04.09.2012 in Claim No. 1727 and 1728 / 760 and by the issue of a Writ of Certiorarified Mandamus or any other appropriate Writ, order or direction; quash that order and direct the second respondent to pay the petitioner the sum of Rs.35 plus 35 lakhs of the total Rs.70 lakh due on claim No.1727 and 1728/760 together with interest at 18% as per annum from 04.09.2012 being the date of the order of the second respondent.

For Petitioner : Mr.M.Kalyanasundaram
Senior Counsel
For Mr. V.Srinivasan

For Respondents : Mr.M.B.Raghavan
[For R1 and R2]

ORDER

The order dated 20.06.2013 repudiating the claim of the writ petitioner and subsequent order of rejection passed by the Insurance Ombudsman are under challenge in the present writ petition.

2.It is not in dispute that the petitioner's father took Bheema Budget 2 money back policies at Rs.35,00,000/- each on his 61st year appointing the petitioner as nominee under those policies.The police holder, viz., Mr. S.Palanisamy died within a few months on 17.03.2012. Further, it is not disputed between the parties that the respondent /Life Insurance Corporation of India settled an ex-gratia of Rs.22,90,869/- on each of the policies totaling to Rs.45,81,738/- instead of full payment of Rs.35,00,000/- in each of the policies. Regarding the differential amount, the petitioner filed an appeal before the authorities, who in turn rejected the same by invoking the repudiation clause in the insurance policy. Thereafter, the petitioner approached the Insurance Ombudsman, who in turn returned the petition on the ground that the Ombudsman has no jurisdiction to entertain the claim over and above a sum of Rs.20,00,000/-. Thus, the petitioner is constrained to move the present writ petition.

3.Learned Senior Counsel appearing on behalf of the Petitioner made a submission that the policy and the payment of premium are not disputed. The death of the policy holder is also not disputed. While so, there is no reason whatsoever to deny the sum assured to the writ petitioner as per the terms and conditions of the policies.

4.In view of the fact that the Respondent /Life Insurance Corporation failed to honour the sum assured, the petitioner approached the authorities, who in turn invoked the repudiation clause on certain flimsy grounds. Thus, the petitioner further approached the Insurance Ombudsman and the petition was returned on the ground that the Insurance Ombudsman has no jurisdiction to entertain the claim over and above a sum of Rs.20,00,000/-. Thus, the relief sought for is to be granted.

5.The Learned Counsel appearing on behalf of the Respondent /Life Insurance Corporation objected the said contentions by stating that basic facts are not in dispute between the parties. However, the policies were taken by the father of the Petitioner at the age of 61 years and the fact regarding the medical treatments were suppressed by the policy holder at the time of proposal. Thus, the authorities are empowered to invoke the repudiation clause on the ground of suppression of medical records and there is no infirmity as such.

6.Considering the mitigating factors, the LIC has considered the case of the petitioner and paid ex-gratia payment of Rs.45,81,738/- in respect of two policies. The payment of ex-gratia itself is a concession already extended to the writ petitioner and therefore, the full payment cannot be granted.

7.Learned Counsel appearing for the Respondent relied upon the judgment of the Hon'ble Supreme Court of India in the case of Reliance Life Insurance Co. Ltd. Vs. Rekhaben reported in [2019 (6) SCC 175].

8.This Court is of the considered opinion that the contractual obligations between the parties cannot be adjudicated with reference to its terms and conditions in a writ proceedings under Article 226 of the Constitution of India. Such adjudication requires examination and scrutinization of original records, evidences including oral evidences. In the present case, the Respondents invoked the repudiation clause on the ground that the policy holder suppressed medical records at the time of proposal. Such disputes require an adjudication /trial, which cannot be undertaken by the High Court in a writ proceedings. As far as the policies are concerned, the respondents have already paid ex-gratia payment of Rs.22,90,869/- (being 90% of the premium of Rs.25,45,410/-) under each policy without any admission of liability.

9.This being the factum, this Court is of the considered opinion that the petitioner if at all aggrieved in respect of the invocation of the repudiation clause by the Respondent Life Insurance Corporation has to approach the competent court of law for the purpose of redressal of her grievances.

10.With these observations, this writ petition is disposed off. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Maya

To

1.The Executive Director (Mktg)
L.I.C. Of India - Central Office
Mktg./CRM/CRC Dept.
Yogakshama
Mumbai - 400 021.

2.The Senior Divisional Manager
LIC of India
Trichy Road
Coimbatore - 641 018.

+1 cc to Mr.D.Ravi, Advocate Sr.NO. 57559

W.P. No. 31824 of 2013

SSD(CO)
A.SK(26.11.2021)