

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 12572 of 2021

Date of Decision: July 13, 2021.

Star Health and Allied Insurance Company Limited PETITIONER (s)

Versus

Permanent Lok Adalat (Public Utility Services), Hoshiarpur and another
..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ravinder Arora, Advocate and
Mr. Neeraj Khanna, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner – Star Health and Allied Insurance Company Limited has filed this writ petition for quashing of impugned award dated 22.01.2020 (Annexure P1) passed by the learned Permanent Lok Adalat (PUS), Hoshiarpur whereby the petitioner-Insurance company has been directed to pay medical claim of ₹1,10,000/- to applicant/respondent No.2, besides, ₹10,000/- as compensation on account of harassment and mental agony.

Brief facts necessary for adjudication of the matter are that, an

application under Section 22-C of the Public Utility Services and Legal Services Authorities Act, 1987 was filed by the applicant/respondent No.2 claiming that he undertook a medi-claim policy, namely, 'Mediclassic Insurance Policy (Individual)' from the petitioner-Insurance company with its validity from 10.11.2016 to 09.11.2017 for an assured sum of ₹5,00,000/-. It is stated that the applicant disclosed to the petitioner's agent through whom the policy was purchased, that he was suffering from polio by birth which had affected both his legs. It was assured by the petitioner's agent that the same is not treated to be pre-existing condition. It is stated that the applicant felt drowsiness and headache on 24.02.2017 and was admitted at Hargun Hospital, Amritsar on 26.02.2017. He was then shifted to KD Hospital, Circular Road, Amritsar and on the same day, he was operated upon. Claim of ₹1,10,000/- was raised with the petitioner-Insurance company. It was informed that the applicant was diagnosed with 'SDH Left Pronto Temporo Parietal Region'. The claim was however repudiated by the petitioner-Insurance company on the ground that the applicant had a history of trauma and history of recurrent fall because of difficulty in walking due to polio. Therefore, the present admission and treatment having arisen due to pre-existing decease, the insurance company was not liable to meet the claim until 48 consecutive months of continuous coverage had elapsed, since inception of the first policy. It is relevant to note at this juncture that the policy is admittedly for a period of one year. As no settlement was possible, learned PLA proceeded to decide the matter while holding repudiation of claim by the Insurance company to be unjustified. Petitioner-insurance company was directed to make payment of ₹1,10,000/-

alongwith compensation of ₹10,000/- within three months from the date of receiving of copy of award, failing which the applicant held entitled to interest at the rate of 9% per annum vide impugned award dated 22.01.2020. Aggrieved therefrom, this writ petition has been filed.

Learned counsel for the petitioner vehemently argue that the medical condition suffered by the applicant and consequent need for surgery arose due to pre-existing condition of polio and as per the specific clause of the policy, polio being a disease of musculoskeletal system, the problem of applicant arose due to the same. Therefore, the petitioner has rightly repudiated the claim being covered by the exclusion clause. It is urged that petitioner-insurance company is not liable to render any payment in respect of expenses for treatment of pre-existing disease/condition, until 48 months of continuous coverage has elapsed since inception of the policy from 10.11.2016. Hence, it is argued that repudiation of the claim by the petitioner is valid. It is, thus, prayed that impugned order dated 22.01.2020 passed by the learned PLA be quashed.

Heard learned counsel for the petitioner and have gone through the file with their assistance.

Applicant was operated upon on 26.02.2017 due to 'Sub Dural Hematoma (SDH) over the left cerebral hemisphere causing mass effect as described including the Contralateral subtalcline herniation of about 1.7 cms towards the right side and mild discending transcelorial hemiation'. Report of the KD Hospital (Ex.R13), sought to be relied upon by the petitioner, has been duly considered by the learned PLA. Mere reference to the report (Ex.R13)

from the KD Hospital wherein cause of SDH is mentioned as trauma and at column 2 is mentioned 'H/o trauma – H/o recurrent fall because of difficulty in walking (Polio affected)', does not come to the aid of the petitioner to justify repudiation of the claim. This is so for the reason that in the very next line it is mentioned that there is no previous history of hypertension. Learned counsel for the petitioner are unable to deny that the applicant did undergo surgery after the diagnosis of SDH Fronto Temporo Parietal Region neither is there any denial of the amount as claimed. There is no evidence on record to directly link the Sub Dural Haematoma (which necessitated the surgery in question) to the affliction of polio.

Keeping in view the facts and circumstances of the case, I do not find any illegality, infirmity or irregularity in the impugned award dated 22.01.2020 passed by the learned Permanent Lok Adalat (PUS), Hoshiarpur which calls for any interference by this Court at the instance of the present petitioner.

No other argument has been raised.

Writ petition is, consequently, dismissed with no order as to cost.

(LISA GILL)
JUDGE

July 13 , 2021.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No