IN THE HIGH COURT OF ORISSA AT CUTTACK

<u>WP(C) No.371 of 2016</u>

(Through Hybrid mode)

Prabhakar Mohapatra	....	***Petitioner***

-versus-

Chairman, Life Insurance Corporation of India, Mumbai and others	....	***Opposite Parties***

Advocates appeared in this case :

For Petitioner	:	Mr. S. K. Singh, Advocate
For Opposite Parties	:	Mr. S. P. Panda, Advocate
		Mr. I. Acharya, Advocate

CORAM: JUSTICE ARINDAM SINHA

<u>JUDGMENT</u>
20.10.2022

1. Mr. Singh, learned advocate appears on behalf of petitioner and submits, his client is nominee under three life insurance policies taken by his nephew, since deceased. All three policies were taken from opposite party no.1 (LIC of India). Particulars of the policies are given below:-

(i) Policy nos.373078101 dated 14^{th} April, 2004, commencing from that date;

(ii) Policy no.373078102 dated 14^{th} April, 2004, commencing from that date; and

(iii) Policy no.373078103 dated 14th April, 2004, commencing from that date.

2. On 27th July, 2005, the Deceased Life Assured (DLA) met with motor accident. On 30th July, 2005 the DLA succumbed to the injuries. The insurance company by letter dated 22nd February, 2008 repudiated claims under the policies alleging withholding material information regarding previous policies, at the time of effecting the assurances with them. Mr. Singh submits, the repudiation came long after expiry of three years from commencement of the policies on 14th April, 2004. In the circumstances, the repudiation stood barred by section 45 in Insurance Act, 1938.

3. Mr. Acharya led by Mr. Panda, learned advocates appear on behalf of the insurance company. Mr. Acharya submits, the repudiation was duly made and there should not be interference.

4. Section 45 bars calling into question policy of life insurance on any ground whatsoever after expiry of three years from date of the policy or from date of issuance or date of commencement or date of revival or date of rider to the policy, whichever is later. Sub-section (2) provides for ground of fraud for calling into question a policy of life insurance, within the time provided. In this case the time is to be reckoned from commencement of policies/risk. All three policies commenced from 14th April, 2004. As aforesaid, the DLA died on 30th July, 2005. There was no event of subsequent revival of the policy and none has urged there was rider to it. In the circumstances, the repudiation on 22nd February, 2008 is clearly beyond the time allowed, to allege misrepresentation by the DLA.

5. Impugned repudiation is set aside and quashed. Opposite party no.1 will forthwith pay on the policies. In event payment is not made by 15th November, 2022, the aggregate amount will carry interest at the rate of 5% per annum simple calculated from 8th January, 2016 (date of presentation of the writ petition) till date of payment.

6. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks