

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.8165 Of 2017
(Through hybrid mode)**

Bajaj Allianz Insurance Company Ltd.

Petitioner

Mr. R.K.Pattnaik, Advocate
Mr. MBK Rao, Advocate

-versus-

Raj Kishore Malik and others

Opposite Parties

Mr. R.R.Satpathy, Advocate
for O.P.1

CORAM: JUSTICE ARINDAM SINHA

**ORDER
31.03.2022**

**Order No.
04.**

1. Mr. Rao, learned advocate appears on behalf of petitioner (Insurance Company) and submits, there was misrepresentation and false information given by deceased (insured) in the proposal form. Date of birth of the insured was given as 12th February, 1959 on basis of transfer certificate dated 16th April, 1982. Pursuant to claim being made, his client made inquiry and investigation that resulted in the Headmaster endorsing, on copy of the certificate produced before him, that it was not issued by him/her. He submits, voter ID card obtained by the insured carries date of birth that does not also support the

declaration of date of birth to be 12th February, 1959. On query from Court he submits, the voter ID card has not been disclosed.

2. Mr. R.R. Satpathy, learned advocate appears on behalf of opposite party no.1, who is the nominee. He submits, the transfer certificate is genuine.

3. On query from Court Mr. Rao submits, the endorsement was made on inquiry made by his client in year, 2015. The policy commenced from 25th March, 2013 and on a term of 15 years. The insured died on 5th February, 2014 being reason for his client to embark on investigation.

4. The transfer certificate says it was issued on 16th April, 1982. At that time name of the school was Govt. U.P. School, Keshur (Ganjam). Endorsement made by the Headmaster on a date in year 2015 was in capacity of Headmaster of the school renamed to be Project Primary School, Keshpurchhaka, Khallikote (Ganjam). The endorsement is taken to be correct statement presuming that the person did not issue the certificate on 16th April, 1982. Some other person was headmaster then. In effect, same thing was found by the Lok Adalat, as will appear from few sentences extracted from award dated 30th May, 2016, reproduced below.

*“ A mere photo copy of any endorsement on Anx-C is not just and adequate to discard an admitted age on the basis of School leaving certificate as emanating from policy schedule. It is not pleaded by the respondent that standard age proof document on which basis, the age was admitted was a fake document not granted by the Head Master, Govt. U.P. School, Keshpur. Written statement was filed on 25.02.2016. The investigation report is dtd.07.04.2015. Once it is not pleaded that admitted age was found incorrect, the alleged standard age proof document being face, and particularly when it is pleaded in Para-4 of the written statement that **as per BPL list, it is found that the life assured was aged 54 years, we are convinced that the insurer intending to repudiate the claim has taken inconsistent plea from stage to stage.**”*

The Lok Adalat found that though investigation report is dated 7th April, 2015 relying upon and referring to the transfer certificate as not issued by the Headmaster, in the written statement filed on 25th February, 2016, petitioner had not alleged the document to be fake.

5. The Lok Adalat appears to have duly adjudicated and passed impugned award. It does not warrant interference.
6. The writ petition is dismissed.

(Arindam Sinha)
Judge

Prasant