IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27175 Of 2017
(Through hybrid mode)

Sriramlife Insurance Co. Ltd.	....	***Petitioner***
		Mr. G.P. Dutta, Advocate

-versus-

Pitambar Das and another	....	***Opposite Parties***
		Mr. S.S. Parida, Advocate

CORAM: JUSTICE ARINDAM SINHA

ORDER
30.03.2022

Order No.

06. **1.** Mr. Dutta, learned advocate appears on behalf of petitioner (insurance company). He submits, impugned is award dated 21st August, 2017, by which a dispute on repudiation of the claim by his client was adjudicated by the Lok Adalat and there was direction to pay sum assured Rs.2,98,300/- and other entitlements with interest at 8% per annum from the date of repudiation and cost of Rs.1,000/-. He draws attention to his client's rejoinder wherein is disclosed, inter alia, the proposal form. He demonstrates, as on 5th March, 2015 the insured had disclosed that he was in good health. On enquiry made by his client under Right to Information Act, 2005 his client discovered from M.K.C.G. Medical College and Hospital, Berhampur, the following said in communication dated 23rd February, 2016.

> *"On verification of computerized IPD register and online submitted death information vide inquest No.1812/2015, it is found that, a patent namely Dayanidhi Das, aged about 48 H.M. S/O:Trinath Das of Palanga, PS:Rambha, Dist. Ganjam was admitted to this hospital and treated in the deptt. Of Medicine on dt.27.6.2015 vide Indoor patient Regd. No.14563 dt.29.6.2015 due to SEVERE ANEMIA WITH RHD and he was expired on the same date i.e. dtd.27.6.2015."*

He submits, SEVERE ANEMIA WITH RHD is Rheumatic Heart Disease. As such it was a pre-existing condition and the repudiation of the claim was duly made.

2. He relies on decision of the Supreme Court in **Branch Manager, Bajaj Allianz Life Insurance Company Ltd. v. Dalbir Kaur** available at **AIR Online 2020 SC 787**, paragraph-9.

3. Mr. Parida, learned advocate appears on behalf of opposite party no.1, who is brother of the deceased. He draws attention, first to letter dated 5th February, 2016 of repudiation. From it, inter alia, following is reproduced below.

> *"We again request you to provide us the following requirements.*
> *All treatment details from MKCG Hospital with Indoor regn. No.14563 including lab reports, discharge/death summary etc.*
> *Despite of sending the Letters and Reminders, this*

5.

office is not in receipt of the above requirements, which are necessary for processing the claim.
Therefore, we are left with no option but to Close the claim under the circumstances and no amounts are payable to you under the Policy.
However, on receipt of the above requirements we are willing to reopen the case and process the Claim accordingly."

He then draws attention to letter dated 23rd May, 2016 of repudiation. From it, inter alia, following is reproduced below.

"We are in receipt of your letter here on 18-April-2016. We wish to inform you that, the claim closed for Non Receipt of Requirements (Complete Medical Reports).
Therefore the claim was re-opened on Receipt of Complete Medical Reports of Deceased Life Assured and that the company stands by the earlier decision.
We have already communicated the decision of Closed of claim wide letter dated 05/02/2016. We stand by our decision of Closed of the claim & no benefits will be payable under the above policy."

4. He submits, on an analysis of the two repudiations, it is clear that the second repudiation does not disclose any reason. He submits, there should not be interference.

5. On facts it is clear that the first repudiation dated 5th February, 2016 was because treatment details from M.K.C.G. Hospital had not been submitted. The second repudiation dated 23rd May, 2016 acknowledges submission of all details yet reiteration of the repudiation made earlier. Hence, contention of opposite party no.1 that the repudiation did not contain any reason is accepted. This is violation of section 45 of Insurance Act, 1938.

6. Facts in **Dalbir Kaur** (supra) was that the proposal was submitted on 5th August, 2014. Policy was issued on 12th August, 2014. Investigation had revealed that proximate to the death, the deceased had been hospitalized in July, 2014 and there was non-disclosure in the proposal. In this case nothing has been shown regarding the deceased having had a medical issue prior to and proximate to the date of submission of proposal. **Dalbir Kaur** (supra) is not applicable on facts.

7. The writ petition is found to be without merit. It is dismissed.

(Arindam Sinha)
Judge

Sks