IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5088 of 2019

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Branch Manager, Star Health and Allied Insurance Company Ltd. Grand Plaza, Dak Bunglow Chauraha, P.S. Kotwali, District- Patna Through, its authorized signatory namely Mr. Sanjay Kumar, Male, aged about 43 years, Territorial Manager, Star Health and allied Insurance Co. Ltd. Patna.

... ... Petitioner/s

Versus

1. Dy. Secretary, Office of the Insurance Ombudsman, Kalpana Arcade, 1st Floor, Bazar Samity Road, Bahadurpur, P.S. Bahadurpur, District Patna- 800016.
2. Shashikala Kumari, C/o Lalan Kumar, H. No. 239, Heralal Lane, Lodipur, Patna- 800001.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ashok Kumar, Advocate.
For the Respondent No.2 : Mr.Sanjay Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 27-02-2023 Heard Mr. Ashok Kumar, learned counsel appearing on behalf of the petitioner – Insurance Company and Mr. Sanjay Sinha, learned counsel for the claimant – respondent no.2.

2. The present writ petition has been filed for the following reliefs:

> "For issuance of appropriate writ/writs, order/orders, direction/directions to the respondents authority to set aside the Award dated 20-12-2018 passed by the learned Insurance Ombudsman, Patna Award no. Award no. IO/PAT/A/GI/0018/2018-2019 by which the (Respondent Insurer) Petitioner hs been ordered to settle the Insurer's Claim for Rs. 1, 13, 610/- and re-instate the policy by collecting appropriate premium within 30 days of receipt of the Award and has further been directed to intimate the compliance of the same to the Ombudsman-Respondent no.-1."

3. This Court vide order dated 07.08.2019 has passed

the following order:

> "Although the writ application has been filed challenging the award of the insurance Ombudsman dated 20.12.2018 for a sum of Rs. 1,13,610/- and to reinstate the policy by collecting the appropriate premium, in course of hearing learned counsel for the petitioner-Insurance Company submitted that the petitioner would be ready to pay the insured claim of Rs. 1,13,610/- but is not willing to reinstate the policy on the ground that the insured person was suffering from arthritis and this fact was not disclosed and had this fact been disclosed in the proposal form the Insurance Company would have denied effecting the insurance or would have charged more premium treating the life of the petitioner in a different class. In fact, learned counsel for the petitioner has produced before this Court two cheques bearing no. 054512 and 054513 for Rs. 75,000 and Rs. 38,610/- respectively drawn on HDFC Bank payable at all branches of HDFC Bank Ltd. Let these two cheques be kept with the Registrar General, Patna High Court.
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> Issue notice to Respondent No. 2 both by ordinary process as well as by registered cover with A/D for which requisites etc. must be filed within two weeks from today, failing which this application shall stand dismissed without further reference to a Bench.
>
> List this case immediately after service of notice or on 16th of September, 2019 whichever is earlier under the same heading maintaining its position.
>
> On appearance of Respondent No. 2, both the cheques shall be made available to her and then the matter will be heard on merit with regard to the challenge made to the part of the order of insurance Ombudsman directing the insurance company to reinstate the policy."

4. In compliance of the aforesaid order, both the parties admitted that the entire claim of the respondent no.2 has been paid.

5. Learned counsel appearing on behalf of the petitioner submitted that the order repudiating the policy on 19.10.2016 of the claimant - respondent no.2 has lost its force in view of the fact that entire claim of the respondent no.2 has

already been paid to her. He further submitted that the policy of the claimant-respondent no.2 must continue in terms of the policy as applicable from 06.02.2014, the date the petitioner had entered into agreement. He further submitted that the petitioner-Insurance Company is required to calculate the premium for the period for which the premium is required to be paid by the respondent no.2 on the basis of renewal of the policy having made year after year by the respondent no.2. He submitted that the respondent no.2 is ready to make payment of the premium applicable as on 06.02.2014. Respondent no.2 has been making payment without any default.

6. Considering the records and submissions made before the Court, petitioner-Insurance Company is bound by the terms of conditions and is required to calculate the amount of premium based on the terms and conditions of the policy bought by the respondent no.2 on 06.02.2014 so that the petitioner may pay the insurance premium for the required period.

7. With the above observation, the present writ petition stands allowed. The said exercise is required to be taken by the petitioner – Insurance Company within two weeks and thereafter giving 15 days time to the claimant-respondent no.2 for making payment of the premium and continue the policy of

the claimant-respondent no.2 who had bought it on 06.02.2014.

8. In above terms the present writ petition is disposed.

(Purnendu Singh, J)

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