BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 31.10.2022

ORDER PRONOUNCED ON : 10.01.2023

CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR
W.P.(MD).No.3290 of 2013
and MP(MD).Nos. 1 & 2 of 2013

P.Kalaivani .....Petitioner

Vs

1.The Secretary
Office of the Insurance Ombudsman
"Fathima Akhtar Court"
4th Floor, 453 (Old No.312)
Anna Salai, Theynampet
Chennai 600 018

2.The Senior Divisional Manager
Life Insurance Corporation of India
Divisional Office
Madurai 625 002

3.The Senior Branch Manager
Life Insurance Corporation of India
Madurai -Rameswaram Road
Paramakudi
Ramnad District

4.T.R.Ramakrishnan
Agent, Life Insurance Corporation of India
No.11/157, Ramakrishnan Street
Paramakudi 623 707 ...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned award No.IO/(CHN) L-028/2012-13 dated 08.08.2012 on the file of the first respondent herein and quash the same as illegal and consequently directing the 2nd and 3rd respondents herein to give the petitioner the entire claim amount of sum assured with bonus in Policy No.744456028 of Life Insurance Corporation of India.

For Petitioner	: Mr.S.Karthick
For R1 to R3	: Mr.S.Karthik for M/s.Profexs Associates
For R4	: No appearance

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein under which he has rejected the request of the writ petitioner for settling L.I.C claim amount.

2.According to the petitioner, her husband N.Pandi @ Pandiarajan had taken Jeevan Anand with profit policy for a sum of Rs.1,00,000/- for a term of 21 years commencing from 15.11.2006. The premium amount was paid regularly up to 2008. Thereafter, the premium amount was not paid and it got lapsed. The said policy was revived with effect from 22.06.2010 after submitting a revival policy form. The petitioner's husband had died on 09.02.2011. When the petitioner made a claim for the sum assured, the same was rejected by the respondents 2 and 3 on the ground that the petitioner's husband has not disclosed the pre-existing disease and hospitalisation during the period in which policy had got lapsed. The rejection order was passed by the respondents 2 and 3 herein on 24.12.2011. Challenging the same, the petitioner had presented an appeal before the first respondent herein. The first respondent has also confirmed the order passed by the respondents 2 and 3. Hence, the present writ petition.

3.The learned counsel appearing for the petitioner had contended that the petitioner's husband was regularly paying the premium amount annually till 2007 and due to non-payment of the premium amount, it got lapsed in the year 2008. Thereafter, the policy was revived with effect from 22.06.2010 by submitting a policy revival form. When the petitioner's husband had enquired about the annexure of any medical fitness certificate, the fourth respondent herein who is the L.I.C agent had informed the petitioner's husband that no such certificate is required for revival of the lapsed policy. Hence, without any medical certificate, the respondents 2 and 3 have revived the policy. Once the policy has been revived by the L.I.C, they cannot thereafter contend that there was a suppression of pre-existing disease and details regarding hospitalisation.

4.The learned counsel had further contended that the policy revival form was filled up and signed only by the fourth respondent, L.I.C agent and not by the petitioner's husband. The petitioner's husband has in fact informed about the disease and hospitalisation during the lapsed period. The fourth respondent, being the agent of the respondents 2 and 3, the petitioner's husband cannot be found fault with for non-mentioning of the pre-existing disease or non-disclosure of the hospitalisation. Hence, he prayed for allowing the writ petition.

5.Per contra, the learned counsel appearing for the respondents had contended that the petitioner's husband has been admitted in the Madurai City Hospital for cirrhosis of liver, viral hepatitis 'A', nephropathy, haemetemesis and diabetic meningitis between 26.05.2010 to 07.06.2010. The petitioner's husband was admitted to the same hospital again between 06.07.2010 to 09.07.2010. The revival policy form has been submitted on 22.06.2010. In Serial No.2, there is a specific question relating to the illness/disease requiring treatment for a week or more. There is also a question relating to the undergoing of ECG/X-Rays/Screening/Blood, Urine or Stool examination from the date of proposal for the above mentioned policy. The petitioner's husband has specifically answered in negative for all these questions. Thereafter, the revival has been accepted and the policy has been revived.

6.The petitioner herself has placed on record the medical attendance certificate issued by Madurai City Hospital and certificate of hospital treatment issued by the said hospital. Both these certificates will clearly disclose that the petitioner's husband was admitted as an inpatient between 22.05.2010 and 07.06.2010. Only thereafter an attempt has been made to revive the policy on 22.06.2010. However, hospitalisation details have been suppressed.

7.The learned counsel for the respondents had further contended that the petitioner's husband has been suffering from liver cirrhosis. The certificate of hospital treatment has disclosed that he died only due to the said cause. Since the death is attributable only to the liver cirrhosis followed by cardiac arrest, the respondents 2 and 3 cannot honour the claim of the writ petitioner. Hence, he prayed for dismissal of the writ petition.

8.I have considered the submissions made on either side and perused the materials available on record.

9.The main contention of the writ petitioner is that the fourth respondent who is the L.I.C agent had informed the petitioner's husband that the medical fitness certificate is not required for submitting a revival form. A perusal of the order passed by the respondents 1 to 3 will clearly indicate that the claim form has not been rejected on the ground of non production of medical fitness certificate along with revival form. In Serial No.2 of the revival form, certain specific questions have been raised relating to the pre-existing disease and hospitalisation. Those questions have been answered in negative by the petitioner's husband. Only based upon the said answer, the policy have been revived. If really the pre-existing disease and the hospitalisation details had been disclosed, the respondent would have charged more premium for reviving the policy. The petitioner's husband has been hospitalised from 26.05.2010 to 07.06.2010 for liver cirrhosis. He had passed away on 09.02.2011 only due to the said disease. Hence, it is clear that the pre-existing disease and the hospitalisation details would have resulted either in non-revival of the policy or in enhancement of the premium for reviving the policy. The non disclosure/misstatement would clearly affect the contract of insurance which is based on good faith.

10.The learned counsel had further contended that though the petitioner's husband has disclosed about the pre-existing disease and the hospitalisation, the fourth respondent/L.I.C agent has not mentioned the same in the revival form. According to the petitioner, the revival form was filled up only by the fourth respondent and it was also signed only by the fourth respondent. The claim application has been rejected by the respondents 2 and 3 on 24.12.2011 citing deliberate misstatement and withholding of material information. Thereafter, the petitioner has addressed a letter on 19.01.2012 and 06.06.2012 to the respondents. In these two representations, there is no contention that the revival form was filled and signed by the L.I.C agent. Therefore, this Court finds that the said contention is only an afterthought.

That apart, if really the revival form has been signed only by the L.I.C agent and not by the petitioner's husband, the revival itself would not be valid in the eye of law. The petitioner and her father have appeared before the first respondent and in their statement, they have admitted that the petitioner's husband has signed in some of the forms produced by the L.I.C agent. Therefore, it is clear that the form has been signed only by the petitioner's husband which does not disclose the pre-existing disease and hospitalisation.

11.In view of the above said facts, this Court finds that the respondents 1 to 3 have rightly rejected the claim form presented by the petitioner on the ground that there has been misstatement and suppression of material facts relating to the health of the petitioner's husband at the time of submitting the form for reviving the lapsed policy.

12.In view of the above said facts, I do not find any illegality or infirmity in the order passed by the authorities. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.01.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
msa

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.3290 of 2013
and MP(MD).Nos.1 & 2 of 2013

10.01.2023