BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17511 of 2015

S.Shoukathaly ... Petitioner

Vs.

1.The Insurance Ombudsman,
Tamil Naud and Pondicherry at Chennai,
represented by its Assistant Secretary,
Office of the Insurance Ombudsman,
Chennai,
Fathima Akhtar Court,
453-Annasalai,
Teynampet,
Chennai-600 018.

2.The Life Insurance Corporation of India,
Represented by its Chairman,
Central Office Claims Disputes Redressal Committee,
(COCDRC)
The Life Insurance Corporation of India,
Central Office, 5th Floor (Link)
Yogakshema Building CRM Department,
Jeevan Bima Marg,
Mumbai-400 021.

3.The Life Insurance Corporation of India,
represented by its
Zonal Manager,
Southern Zonal Office,

P.B.No.2450,
LIC buildings,
102-Anna Salai,
Chennai-600 002.

4.The Life Insurance Corporation of India,
Represented by its Senior Divisional Manager,
Divisional Office,
"Jeevan Prakash"
Bridge Station Road,
P.B.No.16, Sellur,
Madurai-625 002.

5.The Life Insurance Corporation of India,
represented by its Senior Branch Manager,
City Branch Office No.I,
Madurai-625 001. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned complaint No. CHN/ L-029/1516/0030, Award No. 10 (CHN)/A/L-0008/2015-16 dated 19.05.2015 passed by the 1st respondent and forwarded the same through its letter in Annex -XIII- A Ref: CHN-L-029-516-0030 and the impugned letter of the 4th Respondent dated 28.02.2014 in claims /748 and to quash the same and consequently, direct the Respondents 2 to 5 to disburse the claim made by the Petitioner on the basis of policy No. 746416235 within a stipulated time as this Court.

For Petitioner : Mr.A.Saravanan
For Respondents : Mr.G.Prabhu Rajadurai

ORDER

Heard the learned counsel on either side.

2. The petitioner's daughter had taken three insurance policies with LIC. She passed away due to cancer at the young age of 28. The petitioner applied to the respondent for honouring the policy. While the first two policies were honoured, the third policy was repudiated vide communication dated 28.02.2014. Questioning the same, the petitioner filed an appeal before the third respondent. The respondents 2 & 3 also stuck to the same decision. Aggrieved by the same, the petitioner moved the insurance ombudsman. The insurance ombudsman also declined to interfere. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for. His primary contention is that the policy was taken on 28.11.2010.

The insured died on 21.06.2013. The petitioner's case is not an early claim. Therefore, by applying section 45 of the Insurance Act, omission to disclose the earlier policy taken by her cannot be taken as material warranting repudiation.

4. The respondents have filed counter affidavit and the learned standing counsel took me through its contents. He submitted that the issue on hand is no *longer res integra* and that it is squarely covered by the decision of the Hon'ble Supreme Court reported in ***(2019) 6 SCC 125 (Reliance Life Insurance Company Ltd., Vs. Rekhaben Nareshbhai Rathod)***. He called upon this Court to sustain the impugned order and dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. The petitioner's daughter had taken three policies. The first was taken on 09.12.2009 for a sum of Rs.2,00,000/-. The second was taken on 07.01.2010 for a sum of Rs.5,00,000/-. Third one was taken on 28.11.2010 for a sum of Rs.10,00,000/-. The only question that calls for consideration is

whether repudiation of the 3rd policy was justified. In the repudiation letter dated 28.02.2014, the proposal form signed by the insurer had been extracted. In respect of the column calling for particulars in respect of previous policy from LIC of India or any other policy, the insured had made a reference only to the first policy taken on 09.12.2009 for a sum of Rs.2,00,000/-. The insured failed to make disclosure about taking of the second policy on 07.01.2010 for a sum of Rs.5,00,000/-. The Hon'ble Apex Court in the aforesaid decision had held that the failure of the insured to disclose the policy of insurance obtained earlier in the proposal form entitled the insurer to repudiate the claim under the policy.

6. The said decision relied on by the learned standing counsel clearly applies to the case on hand. The order impugned in the writ petition is sustained. The writ petition is dismissed. No costs.

25.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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