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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 22nd December, 2023

IN THE MATTER OF:

+ **W.P.(C) 16642/2023**

AEGON LIFE INSURANCE COMPANY LTD. Petitioner

Through: Mr. Anil Kumar Sangal, Sr. Advocate
with Mr. Siddharth Sangal, Mr.
Gaurav Gupta, Mr. Jaideep Sethi, Ms.
Richa Mishra and Ms. Harshita
Agarwal, Advocates.

versus

MURTI DEVI Respondent

Through: Mr. Biju Thankappen, Advocate.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

CM APPL. 67107/2023 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 16642/2023 & CM APPL. 67106/2023

1. The instant writ petition has been filed under Article 226 read with 227 of the Constitution of India challenging the Judgment dated 31.10.2023 passed by the National Consumer Disputes Redressal Commission (*hereinafter referred to as "National Commission"*) whereby the National Commission has dismissed the First Appeal filed by the Petitioner.
2. The facts of the case reveal that the Respondent is the wife of late Suresh S/o Sh. Ram Swaroop. The husband of the Respondent obtained a



life insurance policy bearing No.512093264072 from the Petitioner herein commencing from 28.09.2012 to 27.09.2033 and duly paid a sum of Rs.8034/- for the said Policy. The total sum assured under the said policy was Rs.55,00,000/- It is stated that within four months of taking the insurance policy, the husband of the Respondent passed away due to sudden cardiac arrest. The Respondent, thereafter, approached the Petitioner for settlement of insurance claim which was repudiated by letter dated 18.06.2023 on the ground that the insured misrepresented his age and occupation/income in the proposal form at the time of taking the insurance policy.

3. The Respondent, thereafter, filed a complaint before the Delhi State Consumer Disputes Redressal Commission (*hereinafter referred to as "State Commission"*) claiming compensation. Before the State Commission, the stand taken by the Petitioner herein was that the husband/insured of the Respondent had concealed material facts such as age, occupation etc. at the time of taking the policy. It was stated that the voter's list disclosed that the insured is 64 years of age and not 39 years as given by the insured in the proposal form. The State Commission *vide* Judgment dated 08.11.2021 allowed the complaint of the Respondent. The relevant portion of the Judgment dated 08.11.2021 reads as under:

"9. Perusal of the above settled law shows that the insurance companies should make verification at the time of acceptance of the insurance policy. In the present case, the opposite party referred the insured to Chanda Health Center at Dilshad Garden, Delhi for the purpose of medical examination and thereafter, issued the said policy on 28.09.2012. The opposite party submitted that it was during investigation of



claim of the complainant, they found that the details with respect to age and income were misrepresented by the insured at the time of taking said policy.

10. We find no justification in this contention of the opposite party as the opposite party could have verified the age of the insured at the time of issuing policy through various documents like Adhaar, Pan Card, Passport etc. When the opposite party can get the insured medically examined from the Chandan Health Centre before issuing the said policy, then they could also verify the documents submitted by the insured with respect to his age and occupation at the time of issuing policy.

11. Regarding proof of age, identity and income of the life assured, the insurance company is duty bound to verify the same at the time of acceptance of the insurance policy and issue insurance cover only after being satisfied with respect to the details provided by the insured. It is generally found that at the time of issuance of the insurance policy, the insurance company remains in haste to receive premium amount and to increase its business. The insurance company starts making verification regarding age, income and identity as and when the insurance claim is submitted so that the insurance company may be able to avoid payment as per terms of the insurance policy.”

4. The aforesaid Judgment dated 08.11.2021 was challenged by the Petitioner by filing an appeal before the National Commission. Before the National Commission, the same stand was taken by the Petitioner that the husband/insured of the Respondent had concealed material facts such as age, occupation etc. at the time of taking the policy and that the voter's list disclosed that the insured is 64 years of age and not 39 years as given by the



insured in the proposal form.

5. The National Commission rejected the arguments of the Petitioner. It was observed by the National Commission that in the proposal form, the date of birth of the insured is mentioned as 01.01.1973 and also in the copies of PAN card and passport the date of birth of the insured is mentioned as 01.01.1973. The National Commission was of the view that since both the documents show the date of birth of the insured as 01.01.1973, voter card alone cannot be a reason to reject the claim of the Respondent. The National Commission, therefore, rejected the appeal filed by the Petitioner *vide* the Impugned Judgment dated 31.10.2023.

6. Learned Senior Counsel for the Petitioner contends that this is a classic case of fraud wherein the deceased had intentionally suppressed the correct date of birth from the Petitioner.

7. The Petitioner/Insurance Company should have taken sufficient safeguards and precautions and verified the documents before entering into the insurance contract with the deceased. Stating that all these documents were presented online does not give an excuse to the Petitioner to wriggle out of its obligation under the insurance contract entered into by the Petitioner with the deceased. It is rightly pointed out by the State Commission that the passport and the PAN card of the deceased points out the date of birth as 01.01.1973. Even the copy of Income Tax Returns was filed, according to which the date of birth of the deceased is 01.01.1973.

8. It is well settled that the power of superintendence conferred by Article 227 of the Constitution of India is to be exercised more sparingly and only in appropriate cases within the bounds of law and not for correcting mere errors (refer: Dalmia Jain Airways Ltd. v. Sukumar Mukherjee, 1950



SCC OnLine Cal 88).

9. In Waryam Singh v. Amarnath, **1954 SCC OnLine SC 13**, the Apex Court has held as under:

“12. This power of superintendence conferred by Article 227 is, as pointed out by Harries C.J., in Dalmia Jain Airways Ltd. v. Sukumar Mukherjee [AIR 1951 Cal 193] , to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors. As rightly pointed out by the Judicial Commissioner in the case before us the lower courts in refusing to make an order for ejectment acted arbitrarily. The lower courts realised the legal position but in effect declined to do what was by Section 13(2)(i) incumbent on them to do and thereby refused to exercise jurisdiction vested in them by law. It was, therefore, a case which called for an interference by the Court of the Judicial Commissioner and it acted quite properly in doing so. In our opinion there is no ground on which in an appeal by special leave under Article 136 we should interfere. The appeal, therefore, must stand dismissed with costs.”

10. The High Courts must be cautious in exercising the powers conferred under Article 227 of the Constitution of India and the power of superintendence should not be exercised unless there has been (a) an unwarranted assumption of jurisdiction, not vested in a court or tribunal, or (b) gross abuse of jurisdiction, or (c) an unjustifiable refusal to exercise jurisdiction vested in courts or tribunals. Only when there is flagrant abuse of these principles or there is a manifest error of law patent on the face of records or an outrageous miscarriage of justice, power of superintendence can be exercised. In fact, the Apex Court in Laxmikant Revchand Bhojwani



v. Pratapsing Mohansingh Pardeshi, (1995) 6 SCC 576, the Apex Court has held as under:

“9. Before parting with this judgment we would like to say that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in the present case. The Act is a special legislation governing landlord-tenant relationship and disputes. The legislature has, in its wisdom, not provided second appeal or revision to the High Court. The object is to give finality to the decision of the appellate authority. The High Court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes.”

11. Similarly, the Apex Court in Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329, has held that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. The Apex Court in the aforesaid judgment has held that the object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts



subordinate to the High Court. The Apex Court has further held that the exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above and an improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality.

12. Applying the said principles to the facts of the present case, it is clear that the Husband of the Respondent herein had taken an insurance policy from the Petitioner herein and in the proposal form he had mentioned the date of birth as 01.01.1973. Copies of the PAN Card and Passport had been given showing the date of birth as 01.01.1973. As stated earlier, the Insurance company should have taken sufficient safeguards to get the documents verified. The Insurance company has to bear the consequences if it has not taken sufficient safeguards and precautions to get the documents verified.

13. This Court does not find any infirmity in the conclusion arrived at by the forums below in exercise of their jurisdiction.

14. Resultantly, the writ petition is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 22, 2023

S. Zakir