AD-04
Ct No.09
06.02.2024
TN

WPA No. 26283 of 2022
IA No: CAN 1 of 2023

Sambhunath Bhandari and another
Vs.
The Regional Manager, Life Insurance Company of India and others

Mr. Arnab Das,
Ms. Nabasree Das,
Ms. Akansha Yadav,
Ms. Syeda Ramana Sultan
....for the applicants

Mr. Dilip Kr. Saha,
Ms. Dhriti Das
.... for the respondents/ writ petitioners

1. The writ petition has been filed by the claimants on an insurance policy on the unfortunate demise of the claimants' son.

2. The accident causing the death and the death took place on December 14, 2019. As on that date, only one of the two policies was in force. Insofar as the other policy is concerned, where the mother of the deceased was the nominee, the same had lapsed in view of premium not being paid in time. However, the premium was paid with late fees soon after the demise, that is, on December 18, 2019. Thereafter, the petitioners have continued to pay the premium which was duly accepted by the insurance company. Yet, the accident claim component of the policy, which had lapsed in the meantime and later on revived, has not been paid to the petitioners although the sum assured has been cleared in their favour. Insofar as the other subsisting policy is concerned, however, the respondent-insurance company has duly paid all dues.

3. Learned counsel for the LICI cites the judgment of *Life Insurance Corporation of India and another vs. Sunita,* reported at *(2022) 1 SCC 68*. The Supreme Court, in the said judgment, clearly stated the legal position that the terms of an insurance policy have to be strictly construed and it is not permissible to rewrite the contract while interpreting the terms of the policy. In the said case, Condition 11 of the policy clearly stipulated that the policy has to be in force when the accident takes place. Similar conditions, it may be mentioned, also find place in the present policy.

4. Continuing with the said case before the Supreme Court, the policy had lapsed on October 14, 2011 whereas on the date of the accident, that is, on March 06, 2012, the same was not in force. It was sought to be revived thereafter on March 09, 2012 after the accident-in-question and that too without disclosing the fact of accident which had taken place in the meantime.

5. Thus, it was held by the Supreme Court that apart from the fact that the respondent complainant had not come with clean hands to claim the add-on/extra accident benefit of the policy, the policy-in-question being not in force on the date of accident as per Condition 11 of the policy, the claim for extra accident benefit was rightly rejected by the appellant Corporation.

6. The Supreme Court went on to observe in the report that since Clause 3 of the said terms and conditions of the policy permitted the renewal of discontinued policy, the appellant Corporation had revived the policy of the respondent complainant by accepting the payment of premium after the due date and paid Rs. 3,75,000/- as assured under the policy; nonetheless for the accident benefit, the policy had to be in force for the full sum assured on the date of accident as per Condition 11. The said accident benefit could have been claimed, as per the Supreme Court, and availed of only if the accident had taken place subsequent to the renewal of the policy. The policy, in the said case, was lying in a lapsed condition since October 14, 2011 and therefore was not in force as on March 06, 2012; resultantly, the claim over accident benefit was not payable to the respondent as per the conditions of the contract of insurance.

7. An identical situation has arisen in the present case. Although the policy-in-question was renewed subsequently on December 18, 2019, prior to that, on December 14, 2019, the accidental death had occurred when the policy was not subsisting. Hence, the principle laid down by the Supreme Court in the reported judgment is squarely applicable to the present case as well. There is nothing on record to indicate that when the late payment and the renewal were accepted by the LICI on December 18, 2019, the said entity was aware of the accidental demise.

8. Thus, applying the same ratio in the present case, the petitioners are not entitled to the claim relating to the accidental benefits although they are entitled to get the sum assured, which has already been paid to them by the LICI.

9. Hence, since the LICI has already paid the accidental claim on the then subsisting claim but has refused to do the same regarding the policy which had stood lapsed at the relevant juncture of the accident, there is no scope of further interference in the matter.

10. Accordingly, WPA No. 26283 of 2022 along with IA No: CAN 1 of 2023 are disposed of in the light of the above observations.

11. The affidavit filed by the writ petitioners today be kept on record.

12. There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)