IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.14871 of 2022

Dr.Sindhu Jayachandran Sreedevi ...Petitioner

-Vs -

1. The Insurance Ombudsman at Chennai,
   Rep. by Assistant/Deputy Secretary,
   The Office of the Insurance Ombudman,
   Fatima Akhtar Court, 4th Floor,
   453 old 312 Anna Salai,
   Teynamper – 018.

2. HDFC Life Insurance Company Limited,
   IRDA Reg. No.101, HDFC Life 5th Floor,
   IL&FS Financial Center,
   Plot C22, G Block, Bandra Kurla Complex,
   Brandra East, Mumbai - 400 051. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Ceritiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in Ref. No.CHN-L-019-2122-0485 in Award No.IO/CHN/A/LI0194/2021-22, dated 28.03.2022, and quash them and direct the second respondent HDFC to settle all the claims benefits with interest and direct the respondent HDFC to sanction compensation for the mental agony and hardship caused to the petitioner and confer all the benefits consequential benefits.

For Petitioner : Mr.R.Dakshian Murthy

For Respondents : No appearance

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 28.03.2022, thereby confirmed the order passed by the second respondent thereby declined the claim of the petitioner.

2. The petitioner's husband availed loan from the HDFC Limited, Chennai, by mortgaging the property under loan account No.616629704 to the tune of Rs. 36,39,468/- and under another loan account No.6514422357 for the sum of Rs.15,00,000/-. Both the loan being insured with the second respondent and the petitioner's husband was issued policy No.23145101 under the plan of CP7 HDFC Life Click 2 Protect Plus, for the period from 28.11.2015 to 27.11.2020. The petitioner's husband also paid a premium of Rs.52,135/- subject to renewal in the month of December, 2020. However the said renewal was not done due to Covid-19. At the time of availing loan the petitioner's

husband was made to enter into insurance policy to accommodate the value of loan amount.

3. Due to Covid-19, the petitioner's husband had sudden massive heart attack on 20.01.2021 and died on 21.01.2021 at MIOT hospital. After his demise, the petitioner approached the second respondent in order to claim insurance amount. However, the claim was declined by the second respondent by its order dated 18.06.2021. Aggrieved by the same, the petitioner filed appeal before the first respondent and the same was also dismissed and confirmed the decline order passed by the second respondent on the ground that the relevant questions in the insurance policy were specifically denied by her husband. Whereas the medical report submitted by the insurer viz., the second respondent, stated that the deceased was suffering from the aliments much prior to the policy inception viz., diabetes for the past five years and hypertension for the past four years. He was also a known smoker for three years and alcoholic for five years. He was also suffering from Coronary Artery disease. These details were suppressed by him and taken the policy with the second respondent.

4. Heard the learned counsel appearing for the petitioner and

perused the materials placed before this Court. Though notice served on the respondents and their name also printed in the cause list, no one is appeared on behalf of them before this Court.

5. On perusal of records revealed that in order to cover the loans which were availed by the deceased, the decease was made to enter into the policy with the second respondent. As declaration made by the deceased, later it was verified by the second respondent. However, after demise of the deceased, declined the claim sought by the petitioner herein. Further the deceased has answered for the question number 12 in negative i.e., "Have you ever suffered from diabetes/high blood sugar/sugar in urine, high blood pressure/hypertension, heart disease, stroke --- No" and in reference to page number 6/8 last para last line stated that with positive family history of coronary Artery Disease. However, the question being projected to the deceased that have you ever suffered and not have your father/mother/grandfather/grandmother suffered, for which the deceased answered as "No". If the later was asked, the deceased could have been answered "Yes". Therefore, it cannot be said that the deceased lied before the second respondent. That apart, normally all are having diabetes and hypertension. Likewise

smoking and alcoholic habits are also common now.

6. On perusal of the explanation submitted by the petitioner for the queries raised by the second respondent revealed that there was no medical consultation for hypertension or any such mental disturbances in the past before the demise. He was perfectly alright and there was no slightest fever of cough, while he was alive. On perusal of the medical report given by the MIOT International hospital, the deceased died due to coronary artery disease – acute anterior wall with sever LV dysfunction and cardiogenic shock. The deceased also developed sudden bradycardia followed by cardiac arrest.

7. Though Covid-19 test was negative, it was happened during Covid-19 and after administrating Covid vaccination. Therefore, the deceased was not died due to cronic heart aliment. He had sudden heart attack and died. Further, the medical report does not say that the deceased was cronic smoker or alcoholic and the heart attack was happened due to smoking or alcohol. Therefore, the deceased had not suppressed any aliments while filling up the forms for insurance policy. Without considering the above facts and circumstances, the first

respondent mechanically dismissed the appeal filed by the petitioner and confirmed the order passed by the second respondent.

8. In view of the above, the impugned order cannot be sustained and it is liable to be set aside. Accordingly, the impugned order dated 28.03.2022, passed by the first respondent in Ref. No.CHN-L-019-2122-0485 in Award No.IO/CHN/A/LI0194/2021-22, is hereby quashed. The second respondent is directed to settle the claims of the petitioner with applicable interest under the policy, which was taken by the petitioner's husband, within a period of two weeks from the date of receipt of a copy of this Order.

9. With the above directions, the Writ Petition stands allowed. There shall be no orders as to costs.

12.04.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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To

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