IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10852 of 2014

T.Nagammal ... Petitioner

Vs.

1. The Insurance Ombudsman,
Fathima Akthar Court, 4th Floor,
453, Anna Salai, Teynampet,
Chennai-18.

2. The Chairman,
Central Office Claims Review Committee,
LIC Of India, CRM Department,
Yogakshema, 5th Floor Link,
J.B.Road, Mumbai-21.

3. Zonal Office Claims Review Committee,
Zonal Office,
Life Insurance Corporation Of India,
LIC Building, 153, Anna Salai,
Chennai-2.

4. The Senior Divisional Manager,
Life Insurance Corporation Of India,
Divisional Office, Jeevan Prakash,
P.O.Box No.183,
Tirunelveli-627 002. ... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the proceedings dated 27.8.2013 passed in Award No.10 (CHN) L-053/ 2013-14 in Complaint No.10 (CHN)/ 21.7.2026/ 2013-134 on the file of the first respondent herein and quash the same and direct the fourth respondent to pay the petitioner the Insurance amount covered under Policy No.321871731 dated 26.6.2006, with interest at the rate of 18% per annum from 16.12.2008 till the date of the settlement of the entire policy claim, within a time frame as may be fixed by this Honourable Court.

For Petitioner	: Mrs.Elizabeth Ravi for Mr.P.Raja
For Respondents	: No Appearance (for R1) Mrs.R.Rajashree, (for R2 to R4)

ORDER

The order dated 27.08.2013, passed in Award No.10, by the Insurance Ombudsman, regarding repudiation of the insurance claim of the petitioner is under challenge in the present writ proceedings.

2. The husband of the writ petitioner, late S.Thommai Raj was working as Selection Grade Driver in Tamil Nadu State Transport

Corporation (Madurai) limited. It is not in dispute that an insurance policy was taken by the husband of the petitioner in policy no.321871731, dated 26.06.2006, for an assured sum of Rs.1,00,000/- (Rupees One Lakh). The maturity of the policy was on 26.06.2021. The last payment to be made was on 26.06.2020. Unfortunately, the husband of the petitioner died on 15.12.2008, i.e., within a period of 2.5 years from the date of taking the insurance policy. A claim petition was filed by the petitioner and the insurance company rejected the same mainly on the ground that the previous medical history of the husband of the petitioner was suppressed and therefore, the claim stands repudiated. The petitioner approached the Insurance Ombudsman, Chennai, who in turn also considered the issue and rejected the application filed by the petitioner. Thus, the present writ petition is to be instituted.

3. The learned counsel for the petitioner would submit that there was no intentional fraud or suppression on the part of the deceased husband of the petitioner. The agent had filled the form and the husband of the petitioner signed. Therefore, the petitioner's husband was not even aware of those facts regarding the columns provided in the declaration form. The husband of the petitioner was serving as a Driver in the

Transport Corporation and therefore, the repudiation of the claim is to be set aside.

4. The learned counsel for the respondent would oppose the said contention by stating that the suppression in the declaration form is vital. Once the previous medical history of the insured is suppressed, then as per the conditions, the insurance company is empowered to repudiate the claims.

5. In the present case, the husband of the petitioner underwent a bypass surgery on 26.09.1999. The said fact was not indicated in the declaration form. Clause 11 of the declaration form says "Personal History". The querries asked in the form reads as under :

Personal History	**Answer 'Yes' or 'No'**	**If 'Yes' please give full details**
(a) During the last five years did you consult a Medical Practitioner for any ailment requiring treatment for more than a week?	No	
(b) Have you ever been admitted to any hospital or nursing home for general check-up, observation, treatment or operation?	No	
(c) Have you remained absent from place of work on grounds of health during the last 5 years?	No	
(d) Are you suffering from or have you ever suffered from ailments pertaining to Liver, Stomach, Heart, Lungs,	No	

Personal History	**Answer 'Yes' or 'No'**	**If 'Yes' please give full details**
Kidney, Brain or nervous system?		
(e) Are you suffering from or have you ever suffered from Diabetes,Tuberculosis, High Blood Pressure, Low Blood Pressure, Cancer, Epilepsy, hernia, Hydrocele, Leprosy or any other disease?	No	
(f) Did you ever have any bodily defect or deformity?	No	
(g) Did you ever have any accident or injury?	No	
(h) Do you use or have you ever used?	No	
(i)Alcoholic drinks	No	
(ii)Narcotics	No	
(iii)Any other drugs	No	
(iv) Tabocco in any form	No	
(i) What has been your usual state of health?	Good	

6. In all the above columns, the husband of the petitioner has stated "No". The usual state of health of the husband of the petitioner was stated as " Good". Therefore, the medical history of the husband of the petitioner was suppressed. Subsequently, the insurance company came to know that the deceased underwent a bypass surgery in the year 1999 itself and was under medication.

7. The insurance policies are settled based on the terms and conditions stipulated. The person insured agreed the terms based on the declaration given. This being the contractual obligation, in the present

case, the Insurance Ombudsman also considered the issues elaborately and found that the insured suppressed the medical history and therefore, there is no reason to interfere with the repudiation of the insurance claim of the petitioner.

8. In view the facts and circumstances, the petitioner has not established any acceptable ground for interfering with the order impugned and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

01.02.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

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S.M.SUBRAMANIAM. J.,

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