IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-4825-2022
Date of decision: 25.07.2024

LIFE INSURANCE CORPORATION OF INDIA ......Petitioner

VERSUS

RAVI AND OTHERS ....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: - Mr. Piyush Sharma, Advocate for the petitioner.

Mr. J.P. Sharma, Advocate for the respondents.

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VINOD S. BHARDWAJ, J. (Oral)

1. The present writ petition has been filed for seeking setting aside of the Award dated 23.12.2021 passed by the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul being illegal and unsustainable in the eyes of law.

2. The question which arises for consideration of this Court is as to whether the Permanent Lok Adalat could have awarded compensation in respect of a policy which had already lapsed where the date of death is much after the expiry of the grace period for depositing the premium.

3. Learned Counsel appearing on behalf of the petitioner-Life Insurance Corporation has approached this Court averring that Smt. Rajni Devi-mother of the respondents No. 1 to 4 had purchased a policy from the petitioner-Insurance Company bearing No. 179708933 under Plan 149-58-21. The sum assured under the said policy was Rs. 1,00,000/- and half yearly premium to the tune of Rs. 3099/- was to be paid. The policy commenced w.e.f. 13.12.2013. The next premium was due on 13.06.2014. With a grace period of thirty days, the premium in question was required to be deposited on or by 12.07.2014. However, the second half yearly premium was not deposited. Rajni Devi-Insured expired on 19.07.2014 whereupon the claim was filed. The petitioner Insurance-Company did not honour the claim whereupon an application under Section 22-C of the Legal Services Authorities Act, 1987 was preferred before the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul.

4. Efforts were made for exploring amicable resolution of the dispute but on failure thereof, adjudication was undertaken. On consideration of the submissions, the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul allowed the said application vide Award dated 23.12.2021 against which the present writ petition has been preferred.

5. Learned Counsel appearing on behalf of the petitioner refers to the reasoning given by the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul and as mentioned in Para 8 of the said Award which is extracted as under:-

"8. In the present case the mother of the applicants Smt. Rajni Devi had obtained a life insurance policy of Rs.1,00,000/- from the respondent on 13.12.2013 vide receipt No.2601367. The first installment of Rs.3,099/- was paid on 13.12.2013, thereafter a policy bearing No.179708933 was issued in favour of late Smt. Rajni Devi. Smt. Rajni Devi expired on 19.07.2014 and her nominee Sh. Ramesh Kumar was also expired on 31.10.2014. It is the admitted case of the respondent that late Smt. Rajni Devi had taken life insurance policy from the respondent and had paid Rs.3,099/- on 13.12.2013. It is also the contentions of the respondent that late Smt. Rajni Devi under the obligation to pay half yearly installment and the amount assured was Rs.1,00,000/-. From the perusal of the reply of the respondent it appears that Smt. Rajni Devi was required to pay the second installment in the month of June 2014 but she did not pay the second installment in the month of June 2014 and she had expired on 09.07.2014. The Lrs. of deceased also did not deposit the second installment within a period of one month time which is a grace period to deposit the installment. However, the Lrs. of late Smt. Rajni Devi could deposit the second installment within a period of six months alongwith fine. But before the expiry of six months, Smt. Rajni Devi died and, therefore, the Lrs. of deceased Smt. Rajni Devi were not required to deposit the second installment. All this shows that the insurance policy was in existence when late Smt. Rajni Devi died despite the fact that Smt. Rajni Devi did not deposit the second installment within a grace period of one month from the date of due of second installment. Therefore, the contentions of the respondent that the life insurance policy of Smt. Rajni Devi was repudiated because of non-payment of second installment has no force and not sustainable in the eyes of law. The respondent was duty bound to pay the assured

amount after deducting the amount of second installment to the Lrs. of late Smt. Rajni Devi after her death. In these circumstances, we are of the considered opinion that the claim of the applicants had wrongly been rejected by the respondent without any reasonable excuse. With these observations, the present application, filed by the applicants, is hereby allowed. The respondent is directed to pay the assured amount of Rs.1,00,000/- after deducting the amount of second installment to the applicants alongwith interest @ 9% per annum from the date of filing of present application till actual realization. The respondent is also directed to pay a sum of Rs.10,000/- to the applicants on account of harassment etc.".

6. Referring to the above, he has contended that the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul has proceeded against the petitioner-Life Insurance Corporation by assuming the date of death to be 09.07.2014 instead of 19.07.2014. Said date i.e. 09.07.2014 was within the limits of the grace period whereas the death in the present case took place beyond the expiry of the grace period and as such the reasons given by the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul are non-sustainable and suffer from misappreciation of the original facts. He contends that the policy had thus already lapsed and refers to Annexure P-3 in this regard.

7. Learned Counsel appearing on behalf of the respondent-claimants does not dispute that the death of Rajni Devi occurred on 19.07.2014 and also does not dispute that the second half yearly installment was to be paid on or before 12.07.2014 i.e. upto the grace period.

8. Having heard learned Counsel for the parties and having gone through the documents appended alongwith the present writ petition, it is not in dispute that the premium for the policy had not been paid and as such the policy cannot be said to be alive and enforceable as on the date when the death occurred. The reasoning given by the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul is based exclusively by considering the date of death as 09.07.2014 and the same being within the grace period of one month from the due date of 2nd installment. The said reasoning not being sustainable on the ground of undisputed fact of the date of death being 19.07.2014 in the present case. Hence, as there was no subsisting policy on the date of occurrence of death, the petitioner/insurance company thus cannot be held liable to pay the sum assured to the respondent-claimant in seeking enforcement of the insurance policy.

9. It is also taken into consideration that the policy note attached with the petition as Annexure P-2 in clause 3 provides for revival of discontinued policy, the same is extracted as under:

> *3. REVIVAL OF DISCONTINUED POLICIES if the policy has lapsed, it may be revived during the life time of the life assured, but within a period of 5 years from the date of the first unpaid premium and before the date of maturity, on submission of proof of continued Insurability to the satisfaction of the corporation and the payment of all the arrears of premium together with Interest at such rate as may be fixed by the corporation from time to time compounding half-yearly. The corporation reserves the right to accept or decline the revival of discontinued policy. The revival of a discontinued policy shall*

take effect only after the same is approved by the corporation and is specifically communicated to the life assured."

10. The said clause of the policy clearly provides that the policy can be revived during the life time of the life assured. The said clause was taken into consideration by the Hon'ble Supreme Court in the case of ***"Life Insurance Corporation of India and another versus Sunita"*** reported as ***(2022) 1 SCC 68***. The relevant part of the same is extracted as under:-

> *7. In order to appreciate the rival contentions raised by the learned counsel for the parties, apt would be to reproduce the relevant conditions of the policy in question. Relevant Conditions 3, 4 and 11 read as under:*
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> > *"3. Revival of discontinued policies: If the policy has lapsed, it may be revived during the lifetime of the life assured, but within a period of five years, from the due date of the first unpaid premium and before the date of maturity, on submission of proof of continued incurability to the satisfaction of the corporation and the payment of all the arrears of premium together with interest compounding half yearly at such rates as may be fixed by the Corporation from time to time. The Corporation, reserves the rights to accept or accept with modified terms or decline the revival of discontinued policy. The revival of a discontinued policy shall take effect only after the same is approved by the Corporation and is specifically communicated to the proposer/life assured.*
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> > *4. Non-forfeiture Regulations: (a) If, after at least 3 full years premiums have been paid in respect of this Policy, any subsequent premiums be not duly paid, this*

Policy shall not be wholly void, but shall subsist as a paid- up value which shall be payable in case of death/maturity and shall depend on the number of years for which premiums have been paid and shall be greater of a sum that bears the same ratio to the maturity sum assured as the number of premiums actually paid shall bear to the total number of premiums originally stipulated in the Policy.

OR

The surrender value as per para 7 below assuming that the policy has been surrendered on the date of death/maturity, as the case may be.

11. Accident benefit (If opted for): If at any time when this policy is in force for the full sum assured or reduced sum assured in case of partial surrender of the policy, the life assured, before the expiry of the policy term or the policy anniversary on which the age nearer birthday of the life assured is 70 years, whichever is earlier, is involved in an accident resulting in either permanent disability as hereinafter defined or death and the same is proved to the satisfaction of the Corporation, the Corporation agrees in the case of:

(a) xx xxx xxx xxx xxx xxx xxx xxx

(b) Death of the life assured: To pay an additional sum equal to the accident benefit sum assured under this Policy, if the life assured shall sustain and bodily injury resulting solely and directly from the accident caused by outward, violent and visible means and such injury shall within 180 days of its occurrence solely, directly and independently of all other causes result in the death of the life assured."

8. Now, so far as the facts of this case are concerned, it is not disputed that the husband of the complainant had taken the life insurance policy on 14-4-2011, that the next premium had fallen due on 14-10-2011 but was not paid by him, that the husband of the complainant met with an accident on 6-3-2012, that thereafter the premium was paid on 9-3-2012 and that he expired on 21-3-2012. It is also not disputed that at the time of making payment of premium on 9-3-2012, it was not disclosed by the complainant or her husband to the appellant Corporation about the accident which had taken place on 6-3-2012. The said conduct on the part of the complainant and her husband in not disclosing about the accident to the Corporation not only amounted to suppression of material fact and lacked bona fides but smacked of their mala fide intention, and therefore, the accident benefit claim of the complainant was liable to be rejected on the said ground alone.

9. It is well-settled legal position that in a contract of insurance there is a requirement of uberrima fides i.e. good faith on the part of the assured. The Supreme Court in Vikram Greentech (India) Ltd. v. New India Assurance Co. Ltd., while dealing with the contract of insurance held as under: (SCC pp. 603-04, paras 16-18)

> *"16. An insurance contract, is a species of commercial transactions and must be construed like any other contract to its own terms and by itself. In a contract of insurance, there is requirement of uberrima fides i.e. good faith on the part of the insured. Except that, in other respects, there is no difference between a contract of insurance and any other contract.*
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> *17. The four essentials of a contract of insurance are: (i) the definition of the risk, (ii) the duration of the*

risk, (iii) the premium, and (iv) the amount of insurance. Since upon issuance of the insurance policy, the insurer undertakes to indemnify the loss suffered by the insured on account of the risks covered by the insurance policy, its terms have to be strictly construed to determine the extent of liability of the insurer.

18. The endeavour of the court must always be to interpret the words in which the contract is expressed by the parties. The court while construing the terms of policy is not expected to venture into extra liberalism that may result in rewriting the contract or substituting the terms which were not intended by the parties. The insured cannot claim anything more than what is covered by the insurance policy. (General Assurance Society Ltd. v. Chandumull Jain, Oriental Insurance Co. Ltd. v. Sony Cheriyans and United India Insurance Co. Lid. v. Harchand Rai Chandan Lal.)"

10. From the aforestated legal position, it is clear that the terms of 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 instant case, Condition 11 of the policy clearly stipulated that the policy has to be in force when the accident takes place. In the instant case, the policy had lapsed on 14-10-2011 and was not in force on the date of accident i.e. on 6-3-2012. It was sought to be revived on 9-3-2012 after the accident in question, and that too without disclosing the fact of accident which had taken place on 6-3-2012. Thus, 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.*

11. Since, Clause 3 of the said terms and conditions of the policy permitted the renewal of discontinued policy, the appellant Corporation had revived the f 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 the said Condition 11. The said accident benefit could have been claimed and availed of only if the accident had taken place subsequent to the renewal of the policy. The policy in the instant case was lying in a lapsed condition since 14-10-2011 and, therefore, was not in force as on 6-3-2012, resultantly, the claim over accident benefit was not payable to the respondent as per the conditions of the contract of insurance.

12. The Court, therefore, is of the opinion that the impugned order passed by NCDRC setting aside the order passed by the State Commission and reviving the order passed by the District Forum was highly erroneous and liable to be set aside.

13. In the aforesaid premises, the present appeal is allowed and the impugned order[1] passed by NCDRC is set aside. The claim of the respondent towards accident benefit stands rejected accordingly. Pending applications, if any, are disposed of.

11. The present case is squarely covered by the judgment of the Hon'ble Supreme Court. One cannot be held eligible for the benefits of a policy once it had lapsed and the process of revival was not undertaken.

12. Therefore taking into consideration the peculiar facts of the case, the present writ petition deserves to be allowed. The Award dated 23.12.2021 passed by the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul in case No. 236 titled as "Ravi and others versus Life Insurance Corporation of India" is liable to be set aside.

13. In view of the above, the writ petition is accordingly allowed and Award dated 23.12.2021 passed by the Permanent Lok Adalat (Public Utility Services), Rewari/Camp Court at Narnaul in case No. 236 titled as "Ravi and others versus Life Insurance Corporation of India" is set aside.

(VINOD S. BHARDWAJ)
JUDGE

JULY 25, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No