IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

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CWP-1433-2024 (O&M).
Date of Decision: 23.01.2024.

KULWINDER KAUR AND ANOTHER

... Petitioner(s)

Versus

THE CHAIRMAN THE PERMANENT LOK ADALAT (PUBLIC UTILITY SERVICES), LUDHIANA AND OTHERS

... Respondent(s)

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

Present: Mr. Liaqat Ali, Advocate, for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the award dated 19.07.2023 passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana¸ whereby the application filed by the petitioner under Section 22-C of the Legal Services Authorities Act, 1987, has been dismissed.

Learned counsel for the petitioner states that the deceased Jatinder Pal Singh, son of the petitioners, had purchased a car bearing registration No.PB-01-B-3219 under Loan Agreement No.44577093 from the respondent-bank. At the time of sanctioning of the loan, the deceased Jatinder Pal Singh also purchased 'Sarv Suraksha Policy' from the HDFC Ergo General Insurance Company limited to cover all types of losses/claims of the insured and his liability and that an assurance was given about hassle free processing and release of any claim in future. The above Sarv Suraksha Policy was valid w.e.f. 04.01.2017 to 03.01.2022. The insured Jatinder Pal Singh suffered a cardiac arrest on 29.05.2021 and was admitted in Orison Super Specialty Hospital, Opposite Grand Walk Mall, Ludhiana for treatment, however, he passed away on 04.06.2021. A claim was thereafter lodged by the petitioners with the respondent-Insurance Company as well as the financing bank to clear the outstanding loan amount, however, the said claim was declined. Aggrieved thereof, the petitioners preferred an application under Section 22 C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Ludhiana.

The respondent bank entered appearance and filed its response objecting that the claim lodged by the petitioners' regarding death of Jatinder Pal Singh under the term critical illness and credit sheet, was not covered under Clause 5 of the terms and conditions of the policy. Hence, the arrears of outstanding loan were not payable by the insurer. It was further pointed out that the 'illness' in question was not covered under any of the 'critical illnesses' covered under the policy. The deceased Jatinder Pal Singh was diagnosed as a case of acute chronic liver failure, severe alcoholic hepatitis child, Meld 46, Ascites, Hepatic Encephalopathy, Coagulopathy, Acute Kidney Injury, Spesis, Metabolic Acidosis, Budd Chiari Syndrome and Cardiopulmonary Arrest that was beyond the Policy. It was also contended that since it was a case of severe alcoholic abuse, hence, the claim was even otherwise covered under the exclusions of the policy.

Efforts for an amicable resolution of the dispute were undertaken by the Permanent Lok Adalat (Public Utility Services), Ludhiana, however, the same failed to fructify in settlement. Adjudication under Section 22 C (8) of the Legal Services Authorities Act, 1987 was hence initiated by the Permanent Lok Adalat (Public Utility Services), Ludhiana.

Upon consideration of the rival submissions advanced and evidence brought on record by the learned counsel for the parties, the Permanent Lok Adalat (Public Utility Services), Ludhiana, declined the claim of the petitioners by recording as under:-

> *"11. We have heard the Ld. Counsels for the parties and have also gone through pleadings and evidence on record.*
>
> *As per insurance policy, the deceased got insurance on two aspects:-*
>
> *1. Credit shield insurance*
> *2. Critical Illness insurance*
>
> *So far as Credit Shield Insurance is concerned, the same is payable under the below mentioned circumstances:-*
>
> *<u>Credit Shield</u>*
>
> *In the event of Accidental Death or Permanent Total Disability of the Insured Person during the Policy Period, the Company will make payment under this policy as detailed below.*
>
> *The Company will pay the balance outstanding loan amount to the legal heirs of the Insured or the Named Insured subject to the maximum Sum Insured specified in the Schedule.*
>
> *The Outstanding Loan amount would not include any arrears of the borrower due to any reasons whatsoever. The claim to be settled only in respect of the death of the first named borrower and not in respect of the others, which may happen in case loan is taken jointly.*

The reading of the aforesaid term clearly goes to show that such loan of the insured was covered by the aforesaid insurance policy only when the death of the insured is accidental. Accidental death has been defined in the same insurance policy which says that the same would mean a sudden, unforeseen and involuntary event caused by external, visible and violent means. It is admitted case of the applicant that the insured died because of cardiac arrest and thus his case is not covered under the aforesaid policy to take benefit of credit shield insurance.

Now adverting to the second claim of the applicants regarding coverage of critical illness. Critical illnesses are described as under:-

(i) First Heart Attack of Specified Severity
(ii) Open Chest CABG
(iii) Stroke resulting in Permanent symptoms
(iv) Cancer of Specified Severity
(v) Kidney Failure Requiring Regular Dialysis
(vi) Major Organ/Bone Marrow Transplant
(vii) Multiple Sclerosis with persistent symptoms
(viii) Surgery of Aorta
(ix) Primary Pulmonary Arterial Hypertension
(x) Permanent Paralysis of Limbs

In the present case, the applicant has placed on record death summary Ex-R1/C issued by the hospital which treated the insured. The observations are as under:-

"29 years old male, known Chronic alcoholic, presented with Pain Abdomen & Jaundice. On presentation patient was conscious but drowsy. He was clinically evaluated & Investigated. Investigation reverted Lencocytsis, deranged renal function, Jaundice, Hypoalbunima & Coagulopathy. He was managed with IV Fluid, albumin, IV antibiotics, laxatives,

hepamerz and FFP transfusion. This condition worsened with coming coagulopathy, renal function deranged with anema. He was shifted to ICU. Supportive treatment continued. He had sudden cardiac arrest. CPR start as per ACLS protocol. But not be revived & declared dead at 5.09pm, 9.6.21.

Diagnosis:- ACLF (alchohal related) severe alcoholic Hepatitis CHILD-C,MELD46/DecAscitic/HE II & III/coagulopathy/AKI/Sepsis/Metabolic acidoris? Budd Chiari Syndrome. Cause of death Sudden Cardio Pulmonary arrest."

12. So perusal of the aforesaid death summary goes to show that none of the aforesaid Critical illnesses was diagnosed during the treatment of the insured. Even otherwise there are clear cut observations that the insured was detected as severe alcoholic. There is an exclusion clause in policy Ex-R1/A according to which no payment will be made by the company for any claim directly or indirectly or Arising out or whosoever attributable to intentional self injury and/or the use or misuse of alcohol. So once the deceased in question was a chronic alcoholic and all the aforesaid diagnosis relates to such alcoholic abuse the applicants are not entitled to receive assured amount of critical illness even if the ultimate cause of death was cardiac arrest because the same is attributable to misuse of alcohol. So keeping in view such circumstances, we do not find any illegality or unfairness on the part of the respondent to reject the claim of the applicants. Finding no merit in this petition the same is dismissed. File be consigned to the records."

Aggrieved thereof, the present writ petition has been filed.

Learned counsel for the petitioner has vehemently argued that the immediate cause of death was cardiac arrest and as such, the event in question should be considered under the 'critical illness' on account of an accidental death and the benefit ought to be extended to the petitioners. He further submits that once the alcohol abuse is not the cause of death, the benefit could not have been denied to the petitioners.

No other argument has been raised.

I have heard the learned counsel appearing for the petitioner and have also gone through the documents appended along with the present petition.

So far as the issue of critical illness is concerned, it is not disputed that the deceased in question was not covered under the 'critical illness' as defined in the policy document under the general insurance. Once the policy document confines itself to certain categories of illness, the scope of cover cannot be extended beyond the risk undertaken. Occurrence of an unfortunate event by itself cannot justify giving rise to a binding enforceable liability not contemplated under the contract. Further, 'accidental death' has also been defined in the insurance policy and covers sudden unforceable and involuntary event caused by external, visible and violent events. It is also clear that as the death in question has not occurred on account of any such accident or event, hence, the death cannot be construed as an accidental death as per the policy. Further, the diagnosis by the hospital, which treated the insured, was "ACLF" (alcohol related) severe alcoholic hepatitis CHILD-C, MELD46/DecAscitic/HE II & III/coagulopathy/AKI/ Sepsis/Metabolic acidoris? Budd Chiari Syndrome. Cause of death Sudden Cardio Pulmonary Arrest. Hence, the cause of sudden death on account of Cardio Pulmonary Arrest cannot be said to be an independent stand alone event. Invariably, it was a case of chronic alcohol abuse and having been diagnosed as such, by the respondents, the exclusion clause in the policy EX.R1/A, would also be operative. When the insured himself has directly as well as indirectly afflicted self injury on account of misuse of alcohol, he cannot claim that nonetheless, the insurance company shall be liable to disburse the amount as undertaken by it.

Besides, even the Permanent Lok Adalat (Public Utility Services), Ludhiana, records that the claim does not fall under the 'critical illness' and the claim fell within the exclusion, owing to an alcoholic abusive and the consequential co-morbidities that led to death of Jatinder Pal Singh.

Nothing has been shown that the case of the deceased Jatinder Pal Singh would not fall in the exclusion or that the finding recorded by the Permanent Lok Adalat (Public Utility Services), Ludhiana, are based on misreading of the evidence and are not corroborated or supported from medical evidence brought on record. Once a specific finding to the effect that the acts leading to sudden pulmonary arrest of the deceased Jatinder Pal Singh were directly related to substance abuse which was an exclusion in the insurance policy is recorded, it cannot be held that there has not been a breach of the essential terms on the part of the deceased.

In the absence of any evidence to show that the finding recorded by the Permanent Lok Adalat (Public Utility Services), Ludhiana suffers from a vice of illegality, procedural impropriety, gross irregularity, perversity or mis-appreciation of evidence on record, it cannot be held that the said finding is liable to be set aside.

The present writ petition is hence dismissed in *limine*. The award dated 19.07.2023 passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana, is affirmed.

January 23, 2024 **(VINOD S. BHARDWAJ**
raj arora **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No