IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3311 OF 2024

Star Health And Allied
Insurance Co. Ltd. **... Petitioner**

Versus

Office of Insurance
Ombudsman, Mumbai And Anr **... Respondents**

Ms. Jinal Rathi *i/b Mr. Rahul Karnik for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATE : 3 MARCH 2025.

P.C. :

1) The Petition challenges Award dated 30 December 2022 passed by the Insurance Ombudsman, Mumbai awarding claim amount of Rs.3,13,416/- towards full and final settlement of the complaint in favour of Respondent No.2.

2) I have heard Ms. Rathi, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by her. I have also gone through the reasons recorded by the learned Ombudsman in the impugned Award as well as gone through the records of the case place alongwith the Petition.

3) It appears that the parents of Respondent No.2 were insured by Oriental Company Mediclaim Policy at least since 16 December 2014. The said policy of Oriental Insurance was renewed every year and was in force till 19 January 2022. It appears that the parents availed insurance claim from Oriental Insurance Company Limited of Rs.3.64 lakh, 3.53 lakh and 5 lakh during currency of the said policy. It appears that the parents of Respondent No.2 were persuaded to port their policy with the Petitioner-Insurance Company during currency of the policy of the Oriental Insurance, which was to continue till 19 January 2022. From 23 April 2021 onwards the insurance policy was ported to the Petitioner-Insurance Company. While the insurance premium of oriental insurance was only Rs.20,567/-, the Petitioner insurance company charged hefty premium of Rs.45,136/- from the aged couple by promising them to issue 'Senior Citizens Red Carpet Health Insurance Policy'. The Petitioner-Insurance Company thus agreed to offer insurance for medical treatment of the couple despite knowing that the father Satish Shantilal Parekh had crossed the age of 70 years possibly on account of payment of hefty insurance premium of Rs.45,136/- every year.

4) It appears that the father of Respondent No.2 was admitted for medical treatment in the year 2021 and was detected with miliary TB. It is Petitioner's case that the detection of the disease was since June 2020 and that it was therefore incumbent to the father to inform the Petitioner-Insurance Company about the ailment suffered by him. To my mind this does not appear to be a case of deliberate availing of insurance after detection of ailment by the father of Respondent No.2. He was insured albeit from a different insurance company continuously since 2014 and it was

because of representation made by the Petitioner-Insurance Company that the aged couple agreed to port their policy upon payment of hefty insurance premium. Considering the above position, this does not appear to be a case of misuse or misrepresentation on the part of the father of Respondent No.2. Considering the facts and circumstances of the present case, I am not inclined to exercise jurisdiction under Article 227 of the Constitution of India to interfere in the Award passed by the leaned Ombudsman, who has already denied 25% of admissible claim amount to Respondent No.2 and has sanctioned only Rs.3,13,416/- in his favour. Considering these unique facts and circumstances of the case, no patent error can be traced in the impugned order for this Court to exercise its extraordinary jurisdiction in the present Petition. Writ Petition is accordingly rejected.

[SANDEEP V. MARNE, J.]