IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.10.2025

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. NO.33257 OF 2022
AND
W.M.P. NO. 32691 OF 2022

M/s.Life Insurance Corporation
Of India Ltd. Rep. by its
Assistant Secretary (Legal & HPF)
South Zone Office, LIC Buildings
Anna Salai, Chennai – 2. .. Petitioner

- Vs -

1. C.Sekar

2. The Insurance Ombudsman
4th Floor, 453, Anna Salai
Teynampet, Chennai 600 018. .. Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the award dated 29.07.2022 made by the 2nd respondent herein in Award No.IO/CHN/A/LI/0059/2022-2023 and quash the same.

For Petitioner : Mr.S.Janarthanam

For Respondents : Mr.R.Marudhachalamurthy

ORDER

Aggrieved by the order of the 2nd respondent in and by which the claim made by the 1st respondent has been affirmatively ordered has been put in issue before this Court through the present writ petition.

2. It is the case of the petitioner that the 1st respondent's wife had taken two policies bearing Policy Nos.316818174 and 342452600 for a sum assured of Rs.2,00,000/- and Rs.1,50,000/- respectively on 9.9.2020 and 28.3.2021 and after the underwriting process, the policy was also issued in the name of the life assured. It is the further case of the petitioner that the life assured died on 12.5.2021, whereinafter, the claim was submitted by the 1st respondent under the aforesaid policies claiming the insured amount. However, after scrutiny and verification, since the claim had arisen within a period of 8 months from the date of the first policy, enquiry was conducted and both the claims were repudiated on the ground of suppression of facts and the premium paid by the life assured were refunded to the 1st respondent.

3. Aggrieved by the said repudiation, the 1st respondent preferred a complaint before the 2nd respondent u/r 13 (1)(b) of the Insurance Ombudsman Rules, 2017 by submitting that his wife expired due to COVID-19 and that at the time of procuring the policy, the agent collected the amounts and obtained the signature of the life assured and that neither the life assured nor the 1st respondent were aware of the contents filled in by the agent and that the life assured was not explained about the details of the policy.

4. It is the further case of the petitioner that even in the complaint the 1st respondent had admitted that his wife, viz., the life assured, had undergone cancer treatment in the year 2015 and was perfectly alright. It was the stand of the petitioner before the 2nd respondent that the life assured was diagnosed with TINoMo-Stage I and had undergone breast conservation surgery on 6.2.2015 at SKS Hospitals which is evident from the discharge summary issued by SKS Hospital and the death report given by Annapoorna Medical College & Hospital is to the effect that the direct cause of death is 'Hypoxia, Auto respiratory Distress Covid-19' and further the disease which is related to death is 'Carcinoma Breast Post O.P. Status Chemo Radiotherapy given'. Therefore, it was contended on

behalf of the petitioner that the pre-proposal having not been disclosed in the proposal form, it is nothing but suppression of material facts and, therefore, the claims were repudiated. The 2nd respondent, upon considering the complaint and adverting to the explanation to Section 45 (4) of the Insurance Act, allowed the claim in favour of the 1st respondent and directed the petitioner to settle the claims under both the policies, aggrieved by which the present petition has been filed.

5. The learned counsel appearing for the petitioner that the pre-proposal illness of carcinoma was not disclosed in the proposal form, inspite of a specific question being given in the proposal form, which had come to light only when the enquiry was conducted, as the claim submitted was a very early claim, which arose within a period of 8 months from the date of issuance of the first policy.

6. It is the further submission of the learned counsel that the life assured had suffered breast cancer and had underwent surgery and even prior to that, the life assured had underwent spine surgery 12 years ago, which facts have not been suppressed in the proposal form. In fact, there is a specific clause in Clause

(e)(7) of the proposal form with regard to Family Details, Health/Habits in which a query has been given with regard to cancer/leukemia/lymphoma/tumor/cyst/any other growth/lumps/blood disorder/enlarged glands for which the life assured had answered in the negative, which alone was the reason to grant the policy. Had the life assured answered in the affirmative, the policy would not have been issued, but would have been referred to the Zonal Office/Central Office for approval. However, without properly appreciating the aforesaid fact, the 2nd respondent had erroneously allowed the claim by adverting to Section 45 (4) of the Insurance Act, which is grossly impermissible and misconceived and, therefore, prays for allowing the petition.

7. Per contra, learned counsel appearing for the 1st respondent submitted that it is the stand of the 1st respondent all along that the agent of the petitioner had merely taken the signature of the life assured in the proposal form and the life assured was not aware of what was filled up by the agent and if at all any error or suppression had crept it, it is only because of the act of the agent for which the 1st respondent cannot be penalised.

8. It is the further submission of the learned counsel that even otherwise, the 2nd respondent has clearly held, by adverting to the explanation to Section 45 (4) of the Insurance Act, wherein it has been clearly prescribed that the misstatement or suppression of fact would not be material unless it has a direct bearing on the risk undertaken by the insurer and if at all it is so, then the insurer is duty bound to show that had the insurer been aware of the said fact, the policy would not have been issued. It is the submission of the learned counsel that the death was on account of COVID-19 is established even through the death certificate and only the disease related to death, as opined by the hospital, is with regard to breast cancer suffered by the life assured and that the life assured had not died on account of breast cancer and, therefore, the suppression of the fact has not in any manner prejudiced the petitioner. Rightly appreciating the aforesaid facts, the 2nd respondent had allowed the complaint and directed the petitioner to settle the claim in favour of the 1st respondent, which does not require any interference at the hands of this Court.

9. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available

on record.

10. There is no quarrel about the fact that in the proposal form, for the pre-proposal illness towards which the questionnaire contains various queries, all the queries have been answered in the negative. The 1st respondent has taken a plea that the agent had merely taken the signature of the life assured in the proposal form and that the life assured was not aware of the contents of the proposal form. It is to be pointed out that before the 2nd respondent except for the documents, no other tangible evidence in the form of the statement of the agent, who had procured the proposal has been placed. If really the petitioner wanted to counter the case of the 1st respondent that the agent had merely taken the signature of the life assured and that the life assured was not aware of the contents of the proposal form or what had been filled up, necessarily, the petitioner ought to have either examined the agent before the 2nd respondent or should have placed at least an affidavit of the agent to counter the said stand, which the petitioner had miserably failed to do.

11. Turning back to the Explanation to Section 45 (4) of the Insurance Act,

which is the basis on which the claim of the 1st respondent had been affirmatively decided, the said provision pertains to the manner in which the suppressed materials facts have to be looked into. For better appreciation, the said provision is quoted hereunder :-

> *"..... the misstatement of or suppression of fact shall not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured."*

12. On the aforesaid explanation, the stand of the petitioner, which weighed with the 2nd respondent to rule against the petitioner is that had the ailment/treatment been disclosed, the petitioner had merely stated that Oncologist opinion would have been sought and the matter would have been referred to the Zonal Underwriting Section/Central Underwriting Section. It is not the case of the petitioner that the policy would not have been issued.

13. From the above, it is even the admitted stand of the petitioner that there is no question that the policy would not have been issued; rather, it is only the case of the petitioner that the matter would have been referred to the Zonal

Underwriting Section/Central Underwriting Section for their opinion.

14. In this backdrop, this Court has to analyse whether the cause of death of the life insured is directly relatable to the pre-existing illness of the life insured.

15. In this regard, the death report issued by Annapoorna Medical College & Hospital has been extracted by the petitioner in its affidavit, which, for better appreciation, is quoted hereunder :-

"Direct Cause of Death	*: Hypoxia, Auto Respiratory Distress COVID-19*
Disease which is related To death	*: Carcinoma Breast Post O.P. Status Chimo and Radiotherapy given"*

16. From the above death report, it is evident that the cause of death is respiratory illness due to COVID-19 and nowhere it is alleged that death was on account of the breast cancer suffered by the life assured. The relatable cause of death attached to the carcinoma of breast is only an associative factor, which is not the main factor and the direct cause of death. COVID-19, it has been opined, is the direct cause of death.

17. It is not even the case of the petitioner that the breast cancer suffered by the life assured is the direct cause of her death, which has been suppressed in the proposal form submitted for issuance of policy. Further, the treatment taken by the life assured for the breast cancer dates back to February, 2015, whereas the policy has been taken only in the year September, 2020 and March, 2021. During the aforesaid period, 2020-2021, there were uncountable number of deaths due to COVID-19, which had the entire world in its grips and the COVID-19 death was associated with even the mildest of symptoms that a person had with regard to other illness, as the proximate cause of death was only COVID-19 and not the associated factors.

18. In the present case, it is the clear opinion of the experts that the direct cause of death is respiratory illness caused due to COVID-19 and such being the case, the associative factors could only be considered to be an aid and it cannot be considered material for causing the death.

19. Further, the Explanation to Section 45 (4) of the Insurance Act prescribes that the misstatement of or suppression of fact shall not be

considered material unless it has a direct bearing on the risk undertaken by the insurer. In the present case, as stated above, the direct cause of death is COVID-19 and not the breast cancer which has had a direct bearing on the cause of death. Further, as per the second limb of Explanation to Section 45 (4), the insurer has not discharged its onus by proving that had the insurer been aware of the said fact, life insurance policy would not have been issued, as even it is the stand of the petitioner that it would not have rejected the proposal, but would have called for the opinion of the Oncologist and referred the matter to the Zonal Underwriting Section/Central Underwriting Section, which clearly shows that even the petitioner has reason to believe that the ZUS/CSU would have approved the proposal as otherwise, the petitioner itself would have rejected the proposal. This fact has weighed in the mind of the 2nd respondent while allowing the claim made by the 1st respondent, which cannot be said to be erroneous.

20. It is to be pointed out that only to avoid contingent situations, insurance is taken. A healthy individual takes an insurance policy not as a matter of investment, but only to avoid any contingent and unforeseen situation that may arise. The concept of insurance is only predicated on the unforeseen

situations that arise in human life and only to safeguard the interests of the families in the event of the untimely death of the bread winner, insurance policies are taken to cover such situations.

21. Further, it should not be lost sight of that howsoever a person may be healthy, illness or sudden medical complications even in respect of a healthy individual cannot be ruled out. Human health is prone to the vagaries of the situation. When it is the specific case of the 1st respondent that the life assured had merely subscribed her signature without knowing the contents of the proposal, the petitioner ought to have examined the agent and in the absence of such an examination, the 1st respondent or for that matter the life assured, since deceased, cannot be fastened with liability with regard to suppression of material, which has affected the underwriting process.

22. In the present case, the life assured, after the breast surgery, the life assured was alive for more than five years and it is not the case of the petitioner that there is any complaint whatsoever with regard to her health thereafter. Only after COVID-19 stuck, which shook the entire human race, the life assured

had developed issues due to COVID-19 and had passed away, which clearly shows that COVID-19 is the direct cause of her death, which is vouched even by the death report issued by the Annapoorna Medical College & Hospital. The proximate cause of death not being due to the pre-existing illness and even according to the petitioner, the said illness did not have a direct bearing on the risk undertaken, the negativing of the claim by the petitioner is grossly erroneous and rightly the said fact has been appreciated by the 2nd respondent while allowing the claim of the 1st respondent.

23. Any misstatement/concealment in the declaration, as submitted by the insured, would amount to the breach of the doctrine of utmost good faith. However, in the present case, there is no material evidencing the fact that the life assured had given any misstatement or concealed any material with regard to his health while signing the declaration, as it is the specific case of the 1st respondent that the agent had obtained signature in the documents and the life assured was not aware of its contents and, therefore, breach of doctrine of good faith does not arise in the present case.

24. Insurance products are sold only on the promise that any unforeseen situation meted out to the life assured would guarantee the safety and security of his family monetarily. Any situation arising to a life assured beyond his control in the form of his health cannot be stated to be a pre-existing illness and was within the knowledge of the life assured unless it is established that the life assured had voluntarily and by deceit not disclosed the information, which would otherwise have been crucial in determining the life coverage of the individual.

25. For the reasons aforesaid, this writ petition stands dismissed confirming the order passed by the 2nd respondent. The petitioner is directed to pay the insurance amount after adjusting the amount, which has already been refunded to the 1st respondent towards the premium paid, to the 1st respondent within a period of four weeks from the date of receipt of a copy of this order, if not already paid. In case, the petitioner fails to pay the amount within the aforesaid period, the 1st respondent would be entitled to interest on the entire amount at the rate of 6% per annum from the date of making the claim petition till the date of payment. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

14.10.2025

Index : Yes / No

GLN

To

The Insurance Ombudsman
4th Floor, 453, Anna Salai
Teynampet, Chennai 600 018.

M.DHANDAPANI, J.

DH/GLN

W.P. NO.33257 OF 2022

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