



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

221

CWP-10213-2020

Date of Decision : **January 29, 2025**

L.I.C OF INDIA

.....Petitioner

VERSUS

SATISH KUMAR WAHI AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Piyush Sharma, Advocate for the petitioner.
 Mr. Y.P.Khullar, Advocate for respondent No.1.

KULDEEP TIWARI, J.

1. Through the instant petition, as cast under Articles 226/227 of the Constitution of India, challenge is thrown to the award dated 19.2.2020 passed by the Permanent Lok Adalat concerned, wherethrough, the petitioner-judgment debtor was directed to pay Rs.80,679/- to respondent No.1 alongwith interest @ 12% per annum from the date of institution of the application till the realization of the amount in question.

2. Brief facts, which are essential for adjudication of the instant matter are that the contesting respondent No.1, filed an application under Section 22-C of the Legal Services Authorities Act, 1987 for reimbursement of the remaining amount i.e. Rs.80,679/-, alongwith interest @ 18% per annum, alleging therein that he purchased Jeevan Arogya Policy from the present petitioner for the period starting from 28.2.2013 to 28.3.2037. The assured sum was Rs.4 lacs. Having some medical issue with regard to his eyes, respondent No.1 got himself admitted with Grewal Eye Institute, Chandigarh on 24.12.2018, whereby he was advised for surgery for the

Treatment of cataract in the left eye. The operation was conducted successfully on 24.12.2018 itself and he was discharged on the same very day. Respondent No.1 spent about Rs.1,06,679/- on the said treatment, however, the Insurance Company (petitioner) paid only Rs.26,000/- against the medical claim of Rs.1,06,679/-.

3. The application was contested by the petitioner and it was pleaded before the Permanent Lok Adalat concerned that respondent No.1 was not covered under General Health Insurance and rather he has purchased health plan from the petitioner and under the health plan policy, the liability and the entitlement are pre-determined, and therefore, the respondent/applicant is only entitled for the fixed amount.

4. The plea raised by the Insurance Company (petitioner) was not accepted by the Permanent Lok Adalat concerned on the premises that the terms and conditions were never brought to the notice of respondent No.1 and, therefore, the same cannot be relied upon to deny the benefit to him and has passed the award (supra).

5. Learned counsel for the petitioner while drawing the attention of this Court towards the policy purchased by respondent No.1 submits that it is a health protection plan and in the policy itself, it is clearly mentioned not only at one place but on two places that the policy or the assurance shall be subject to the 'condition and privilege', attached with the policy, therefore, once the contesting respondent is a party to a contractual agreement, he cannot claim that he will only be entitled for the benefit and will not be governed by the terms and conditions of the said policy. He further submits that the question of plea of ignorance of the terms and conditions does not arise as

on an earlier occasion as well, respondent No.1 has raised a claim of Rs.1,29,825/- when he was earlier hospitalized for another disease and thereupon he was paid an amount of Rs.2,18,400/- against the above amount as he was covered under health protection plan, where the charges are already fixed. In the instant case, the cataract surgery falls under day care procedural benefit, as mentioned in the policy and only Rs.26,000/- was paid to the applicant as nothing more is payable. To lend vigor to his arguments, the learned counsel for the petitioner has placed reliance upon the terms and conditions of policy. The relevant extract of the same reads as under:-

“II) Major Surgical Benefit:

In the event of an insured under this policy undergoing any specified Surgery (as mentioned in the Major Surgical Benefit Annexure) within the Cover Period in a Hospital due to Accidental Bodily Injury or Sickness first occurring or manifesting itself after the Date of Cover Commencement and during the Cover Period then, subject to the terms and conditions, waiting period and exclusions of this policy, a percentage (as mentioned in the Major Surgical Benefit Annexure against the specified Surgery performed) of the Major surgical Benefit Sum Assured shall be payable by the Corporation, regardless of the actual costs incurred.

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III) Day Care Procedure Benefit:

In the event of an Insured under this Policy undergoing any specified Day Care Procedure (as mentioned in the Day Care Procedure Benefit Annexure) within the Cover Period in a Hospital due to Accidental Bodily Injury or Sickness first occurring or manifesting itself after the Date of Cover Commencement and during the Cover Period then, subject to the terms and conditions, waiting period and exclusions of this Policy, an amount equal to 5 (five) times the Applicable Daily Benefit, shall be payable by the Corporation, regardless of the actual costs incurred.”

6. The submission made by the learned counsel for the petitioner has been opposed by learned counsel for respondent No.1. He submits that respondent No.1 was never made aware about the terms and conditions of the policy, as he was only given the policy cover and the documents carrying terms and conditions were never made available to him, therefore, on account of the concealment on the part of the petitioner, he cannot be made liable to the terms and conditions of the contract which was never made available to him. He has placed reliance upon the judgments of the Hon'ble Supreme Court passed in the cases of **“Bharat Watch Company through its Partner Vs. National Insurance Co. LTd., through its Regional Manager” 2019(3) R.C.R. (Civil) 45** and **“New India Assurance Co. Ltd., & Ors. Vs. Paresh Mohanlal Parmar”, 2020(1) R.C.R. (Civil) 1006.**

7. This Court has considered the rival submissions made by the learned counsel for the parties concerned and has perused the entire record.

8. The facts which are not under dispute are that respondent No.1 has never purchased a medi-claim policy rather the said policy is called a Jeevan Arogya Policy and the benefits thereof are fixed. The liability and the entitlement are pre-determined. What also not in dispute is that the terms and conditions attached with the policy was never communicated to respondent No.1. The respondent No.1 has incurred an expenditure of Rs.1,06,679/- on his cataract surgery and he was granted an amount of Rs.26,000/-.

9. Now the issue, which arises for consideration is that whether in terms and conditions, the respondent No.1 was correctly reimbursed or not. To adjudicate the said issue, this Court has examined the policy. As per the policy, the case of respondent No.1 is covered under Day Care Procedure

Benefit and the clauses (ii) and (iii) have already been extracted above, therefore, the terms and conditions of the policy are applicable to the case of respondent No.1, therefore, his claim has been rightly reimbursed by the petitioner.

10. The next issue, which arises for consideration is, whether, respondent No.1 was having knowledge of the terms and conditions of the policy though he was never supplied with the terms and conditions attached with the policy cover. This Court has examined the record and as per which earlier respondent No.1 also raised a claim of Rs.1,29,825/-, however, he was paid Rs.2,18,400/- i.e. over and above incurred expenditure being already fixed benefit plan, therefore, once the respondent No.1 has enjoyed the benefit of this policy by accepting the amount over and above the expenditure, as earlier incurred now he cannot turn around to say that he was not aware about the terms and conditions of the policy once he has incurred loss. The judgments which have been relied upon by the learned counsel for respondent No.1, would not be applicable to the facts and circumstances of the instant case, as in those cases the insured was never made aware about the terms and conditions of the policy, but in this case this Court has already held that respondent No.1 has already availed the benefit under the terms and conditions of the policy (supra), therefore, he cannot be plead such ignorance. Consequently, the instant petition is **allowed** and the impugned award is set-aside.

January 29, 2025
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(KULDEEP TIWARI)
JUDGE

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