IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

110 **CWP-35325-2024.**
Date of Decision: 07.01.2025.

Subhash Kumar ....Petitioner.

VERSUS

Branch Manager, Bajaj Allianze Life Insurance Company Limited and others

....Respondents.

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CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Navmohit Singh, Advocate for the petitioner.

Mr. Nitin Thatai, Advocate,
Ms. Monika Thatai, Advocate,
Ms. Shruti Sharma, Advocate and
Mr. Karan Sharma, Advocate for respondents No.1 and 2.

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ANUPINDER SINGH GREWAL, J. (Oral)

The petitioner has challenged the judgement dated 01.05.2024 (Annexure P-6) passed by National Consumer Disputes Redressal Commission, New Delhi (for short, 'National Commission'), whereby the revision petition preferred by the petitioner against the order dated 07.03.2017 (Annexure P-5) of the State Consumer Disputes Redressal Commission, Haryana, Panchkula (for short, 'State Commission'), has been dismissed.

2. Learned counsel for the petitioner submits that the complaint of the petitioner was initially allowed by the District Consumer Disputes Redressal Forum, Sonepat (for short, 'District Consumer Forum'), on 05.08.2015 (Annexure P-3). The respondents had challenged the order dated

05.08.2015 by preferring an appeal which was allowed by the State Commission. The insured/wife of the petitioner had been issued two policies of life insurance for a total sum of Rs.5 Lakhs by the respondent-Insurance Company. He submits that as the wife of the petitioner had been duly insured with the respondents for life and the premium had been paid, the respondents cannot turn around and deny the claim on the basis that she did not disclose her pre-existing ailment. He submits that the pre-existing ailment was minor in nature as she was suffering from diarrhea etc. and its non disclosure cannot be cited as a ground to deny the rightful claim of petitioner under the policy especially when this alleged pre-existing ailment had no nexus with her death which was due to heart attack.

3. Heard.

4. The wife of the petitioner is stated to have taken two policies for a total sum of Rs.5 Lakhs on 24.09.2012. She had expired on 01.03.2013. The claim of the petitioner has been denied on the ground that his wife had a pre-existing ailment "*Acute gastroenteritis with septicemia with shock with CVA old*". The form which had been filled by the insured at the time of taking the policy contains questionare wherein information with regard to any pre-existing major medical condition was to be disclosed. The relevant extract of the form is reproduced hereunder:-

"1. Have you ever had or have a major medical condition such as any form of heart disease, stroke, cancer or mental illness?"	*No/Yes*

It is evident that the insured had ticked 'No'. The insured had remained admitted in Jaipur Golden Hospital, Delhi, from 06.02.2012 to 10.02.2012 and had been treated for the afore-noted ailment. The discharge

summary indicates that she was suffering from "*Cerebrovascular Accident (CVA)"*. The relevant extract of the discharge summary dated 10.02.2012 is reproduced hereunder:-

> "***PAST MEDICAL HISTORY:*** *Known case of CVA. is a medical term for stroke. A stroke is when blood flow to a part of your brain is stopped either by blockage or a rupture of blood vessel"*.

The insured is enjoined to disclose the information with regard to medical condition as sought by the insurer and withholding of such information would disentitle the insured to the claim under the policy. Reference can be made to the judgement of the Supreme Court in the case of **Branch Manager, Bajaj Allianz Life Insurance Company Ltd. and others vs. Dalbir Kaur, 2020 SCC OnLine SC 848.** The relevant extract is reproduced hereunder:-

> "9. A contract of insurance is one of utmost good faith. A proposer who seeks to obtain a policy of life insurance is duty bound to disclose all material facts bearing upon the issue as to whether the insurer would consider it appropriate to assume the risk which is proposed. It is with this principle in view that the proposal form requires a specific disclosure of pre-existing ailments, so as to enable the insurer to arrive at a considered decision based on the actuarial risk. In the present case, as we have indicated, the proposer failed to disclose the vomiting of blood which had taken place barely a month prior to the issuance of the policy of insurance and of the hospitalization which had been occasioned as a consequence. The investigation by the insurer indicated that the assured was suffering from a pre-existing ailment, consequent upon alcohol abuse and that the facts which were in the knowledge of the proposer had not been disclosed. This brings the ground for repudiation squarely within the principles which have been formulated by this Court in the

decisions to which a reference has been made earlier. In Life Insurance Corporation of India vs Asha Goel, this Court held:

> "12…The contracts of insurance including the contract of life assurance are contracts uberrima fides and every fact of material (sic material fact) must be disclosed, otherwise, there is good ground for rescission of the contract. The duty to disclose material facts continues right up to the conclusion of the contract and also implies any material alteration in the character of risk which may take place between the proposal and its acceptance. If there is any misstatements or suppression of material facts, the policy can be called into question. For determination of the question whether there has been suppression of any material facts it may be necessary to also examine whether the suppression relates to a fact which is in the exclusive knowledge of the person intending to take the policy and it could not be ascertained by reasonable enquiry by a prudent person."

10. This has been reiterated in the judgments in P C Chacko vs Chairman, Life Insurance Corporation of India and Satwant Kaur Sandhu vs New India Assurance Company Limited. In Satwant Kaur Sandhu vs New India Assurance Company Ltd., at the time of obtaining the Mediclaim policy, the insured suffered from chronic diabetes and renal failure, but failed to disclose the details of these illnesses in the policy proposal form. Upholding the repudiation of liability by the insurance company, this Court held:

> "25. The upshot of the entire discussion is that in a contract of insurance, any fact which would influence the mind of a prudent insurer in deciding whether to accept or not to accept the risk is a "material fact". If the proposer has knowledge of such fact, he is obliged to disclose it particularly while answering questions in the proposal

> form. Needless to emphasise that any inaccurate answer will entitle the insurer to repudiate his liability because there is clear presumption that any information sought for in the proposal form is material for the purpose of entering into a contract of insurance."
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> (emphasis supplied)

5. It is, thus, manifest that wife of the petitioner was suffering from "*Acute gastroenteritis with septicemia with shock with CVA (old)*" and the same had not been disclosed when the policy was issued. This concealment would be sufficient to deny the claim.

6. In view of the above, we are of the considered view that the order of the National Commission does not suffer from any manifest illegality which would warrant interference by this Court while exercising its writ jurisdiction. The writ petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

07.01.2025
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No