IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16099 OF 2024

ICICI Lombard General Insurance Company Ltd ...Petitioner

Versus

Insurance Ombudsman Mumbai & Anr ...Respondents

Ms. Varsha Chavan, *for the Petitioner.*

Mr. Adi Rusi Jijina, *a/w Akshay Raju Shinde, Ashish K. Upadhyay, for Respondent No.2.*

CORAM : SOMASEKHAR SUNDARESAN, J.
DATE : JANUARY 29, 2026

ORDER :

1. This Petition impugns an order passed by the Learned Insurance Ombudsman on March 7, 2024.

2. At the outset, it is found that Exhibit 'C' in the Petition in the record of the Court contains a letter dated May 31, 2023 issued by Respondent No.2 to the Petitioner. Learned Advocate for the parties jointly submit that in their record the said Exhibit is a prescription by the family physician of Respondent No.2. By consent, a copy of such prescription is marked 'X', taken on record and added to the record of the Court.

3. The Ombudsman has allowed a claim under Clause C.1.3 of the Permanent Partial Disablement benefit policy issued by the Petitioner to Respondent No.2.

4. Having heard the advocates of the parties at some length and having examined the material on record with their assistance, it is apparent that the records before the Ombudsman included the reports of the Hinduja Hospital, which contain a provisional diagnosis and a final assessment, which are found between pages 25 and 32 of the Petition. It is noteworthy that the fall complained of, occurred on June 3, 2022, whereas the reports of Hinduja hospital ranged between June 15, 2022 and June 24, 2022. These reports are proximate to the occurrence of the fall and they do contain indicia and information, which would need to be dealt with. The Learned Ombudsman has merely reproduced a report filed by one Dr. Alpa Jain on November 24, 2022 and a disability certificate issued by the Government on April 21, 2023, and has proceeded to award the claim.

5. In my opinion, while dispensation of justice by the Ombudsman is meant to be informal and quick, it would not dispense with the need to deal with objective empirical data that forms part of the record. To ensure that there is an assurance of due consideration of

relevant material to return an objective and reasoned finding, it is necessary to ensure that no relevant materials must be ignored by the Ombudsman in order to protect the decision from being arbitrary.

6. It is also seen that the Petitioner relies upon a certificate from one Dr. Ruchi Shah, which is dated March 5, 2024. Evidently, this certificate has been obtained well after the hearing conducted by the Ombudsman concluded on February 23, 2024. Indeed, the complainant was absent during the said hearing and the Ombudsman has passed the award on March 7, 2024 with Dr. Ruchi Shah's certificate having come just two days before that date. The Ombudsman cannot be faulted for non-consideration of such certificate produced well after a personal hearing concluded.

7. What weighs with me is that the Impugned Order does involve any consideration of evidence contemporaneous with the fall suffered, and does not deal with the inherent contradictions canvassed by the Petitioner. Indeed, the Respondent has strong submissions to make in respect of how, in content, the outcome of the Ombudsman cannot be faulted, but it would only be appropriate for the Ombudsman to deal with all facets of facts comprehensively instead of a writ court having to assess matters of disputed facts.

8. In these circumstances the following order is passed:-

A) The order is set aside by way of remand to the Ombudsman, leaving it to the parties to address Ombudsman on the specific facets of fact as above;

B) Since it is stated that the Respondent No.2 is in hospital and would not be able to attend to the hearing personally, he is permitted to be represented by a lawyer before the Ombudsman. A lawyer may represent the insurer as well. However, it is made clear that the parties are being sent to the Ombudsman only to address the Ombudsman on questions of fact which would enable him to assess how to apply the provisions of the contract in the insurance policy;

C) The convention of not allowing Advocates in Ombudsman hearing is to ensure that the process is non-formalistic and responsive to informal and substantive justice and that principle must not be undermined by permitting lawyers of both sides to make submissions before the Ombudsman. The parties shall restrict their submissions to specific facets of facts as are discernible from the record brought to this Court's attention in the form of this Petition;

D) Should the insured desire to address the concerns raised in the Petition he/she would be at liberty to do so before the Ombudsman and a written submission dealing with all such contentions may be filed before the Ombudsman within a period of four weeks from the upload of this order on the website;

E) The Ombudsman is requested to convene within two weeks thereafter and give a hearing to the parties to take a fresh view on the matter.

9. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]