

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15191 OF 2025

Oriental Insurance Company Ltd. ...Petitioner

Versus

The Insurance Ombudsman & Anr. ...Respondents

Ms. Harshada Rane, for the Petitioner.

CORAM : N. J. JAMADAR, J.

DATED : 16th FEBRUARY 2026

Oral Order:

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this petition is to an Award dated 31st January, 2025 passed by the Insurance Ombudsman, Mumbai, whereby the repudiation claimed by the petitioner was disallowed and the petitioner – Insurer has been directed to pay a sum of Rs. 2,05,000/- (Rupees Two Lakhs Five Thousand) to the Respondent No. 2 – Insured, towards full and final settlement of the claim.
3. The said claim by the Insured was in respect of the treatment of the wife of the Insured, who was suffering from Cancer. The Consultant Medical Oncologist attached to Health Care Global Enterprises (HCG) Hospital had advised

‘GUARDANT 360 Lbx 83 GENE PANEL TEST’. On 22nd November, 2022 a certificate was also issued by the Consultant Medical Oncologist. Pursuant to the said advice, the patient had undergone the said test and the Respondent No. 2 lodged claim for Rs. 2,05,000/- (Rupees Two Lakhs Five Thousand). The report of the test is annexed at Exhibit D to the petition.

4. The petitioner repudiated and later rejected the claim on the ground that, the said Guardant 360 assay was developed, and its performance characteristics were determined, by Guardant Health, Inc. The said test had not been cleared or approved by the U.S. Food and Drug Administration (FDA). Therefore, the claim was denied under Exclusion clause No. 2.48, which reads as under:

“UNPROVEN/EXPERIMENTAL TREATMENT means the treatment including drug experimental therapy which is not based on established medical practice in India, is treatment experimental or unproven”.

5. The Ombudsman disallowed the repudiation on the ground that, the tests were prescribed by a registered medical oncologist at a reputed Cancer Hospital in Bangalore. Moreover,

the Hospital has provided treatment to the patient based on the test results.

6. The learned Counsel for the petitioner submitted that, the Ombudsman has proceeded on an incorrect premise of liability of the Insurer, in view of the multiple insurance policies. The core issue that, the said test was an “unproven/experimental treatment”, was not addressed by the Ombudsman. Attention of the Court was invited to the observations in the report in regard to the said test. Particularly, the caveat that, the said test has not been cleared or approved by the US Food and Drug Administration (FDA).

7. I have perused the material on record. Evidently, the Consultant Medical Oncologist has prescribed the said test. The patient, in circumstances she found herself in, has underwent the test bonafide and on the advice of an expert Oncologist. Though it is mentioned in the report that, the said test has not been cleared or approved by the US FDA yet it is further clarified that, the FDA has determined that, such clearance or approval was not necessary and that the test may be used for clinical purposes and should not be regarded as investigational or for research only. As the test was advised by

the Specialist at HCG Hospital, and the results thereof were purportedly utilized for further treatment of the patient, the Ombudsman seems to have taken a justifiable view of the matter.

8. Thus, in exercise of its supervisory jurisdiction, this Court does not consider it appropriate to interfere with the order passed by the Ombudsman.

9. The petition stands dismissed.

[N. J. JAMADAR, J.]