APHC010525602024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3579]
(Special Original Jurisdiction)

<u>WRIT PETITION NO: 27059 OF 2024</u>

Between:

1. ISNAKA DEVASENAMMA, W/O LATE VENKU REDDY, R/O D.NO 24-6-49, SARASWATHI NAGAR, DARGAMITTA, NELLORE, AP.

...PETITIONER

AND

1. M/S MAX LIFE INSURANCE COMPANY LIMITED, REP. BY ITS EXECUTIVE VICE PRESIDENT, INDEEVAR KRISHNA, OPERATION CENTRE CLAIMS UNIT, HAVING ITS REGISTERED OFFICE AT PLOT NO. 90A, SECTOR 18, HUDA, GURUGRAM - 122 015, HARYANA
2. M/S MAX LIFE INSURANCE COMPANY LIMITED, REP. BY ITS BRANCH MANAGER, NELLORE, OFFICE AT 1ST FLOOR, D.NO. 15/295, BRINDAVANAM, NELLORE - 524 001, AP
3. M/S AXIS BANK LIMITED, REP. BY ITS BRANCH MANAGER, NELLORE, OFFICE AT D.NO. 23-3-279, GRAND TRUNK ROAD, NEAR RTC BUS STAND, NELLORE-524 003.

...RESPONDENT(S):

CORAM:- THE HON'BLE CHIEF JUSTICE Mrs.JUSTICE LISA GILL
THE HONOURABLE Mr.JUSTICE NINALA JAYASURYA

DATE:- 27th April, 2026.

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PRESENT: Mr.M.Srikanth, Advocate for Petitioner
Mr. Shaik Asif, Advocate for Respondent.

The Court made the following Order:*(Per Hon'ble Mr.Justice Ninala Jayasurya)*

Challenging order dated 03.07.2024 of the National Consumer Disputes Redressal Commission, at New Delhi (for short "NCDRC") in First Appeal No.664 of 2022, unsuccessful appellant / complainant filed the present Writ Petition.

2) One Mrs. Isnaka Devasenamma (hereinafter referred to as 'the complainant') lodged Complaint No.1 of 2020 before Andhra Pradesh State Consumer Disputes Redressal Commission, Vijayawada (for short "SCDRC") stating that her husband Mr.Venku Reddy (hereinafter referred to as "deceased life assured") approached 3rd respondent for loan of Rs.45,00,000/- against property for which 3rd respondent agreed to lend, by charging interest @ 10.5% p.a., and the tenure is eight (08) years. 3rd respondent induced her husband to take life insurance policy with 1st respondent Insurance Company. On payment of premium of Rs.78,747/- through cheque dated 25.01.2019, 3rd respondent sanctioned required loan of Rs.45,00,000/-. 1st respondent issued policy certificate in the name of her husband on 13.02.2019. Subsequently, on 28.02.2019 Mr.Venku Reddy died intestate while he was undergoing medical treatment at Basavatarakam Indo-American Cancer Hospital and Research Institute, Hyderabad.

3) The complainant, being nominee under policy issued by 1st respondent, made a claim for an amount of Rs.45,00,000/-, but the same was refused on 15.05.2019 on the premise that prior to sanction, in Health Declaration Form, Mr.Venku Reddy has not disclosed that he was diagnosed with Non-Hodgkin

Lymphoma. Aggrieved by the said rejection, she filed complaint before SCDRC. In support of her claim, Exs.A1 to A14 documents were filed.

4) Respondent-Insurance company filed its response and denied the claim stating that deceased life assured suppressed his health condition and got policy (Ex.A13) in his name. It justified refusal of claim by relying on Exs.B1 to B8. Learned State Consumer Redressal Commission after thorough scrutiny of documentary evidence and due consideration of arguments advanced on both sides, dismissed the complaint by recording its findings at para No.11, the relevant portion of which reads as follows:

> "11) ……. A perusal of Apollo hospital medical record clinchingly establishes that the life assured underwent number of tests including blood samples on 12.01.2019. A perusal of the record clearly reveals that the blood reports of the life assured were received on 14.01.2019. On 12.01.2019 itself, the life assured was diagnosed with "Chronic Lymphoprollferative disorder". A perusal of this record further reveals that the life assured had taken treatment in Apollo Hospital, Chennai from 16.01.2019 to 22.01.2019 with "UHID No. AC010003077912. In all these reports, reference doctor name is shown as Dr. JOSE MEASOW. The life assured once again joined in Apollo Hospital, Chennai on 07.02.2019 and discharged on 08.02.2019 with UHID No. AC010003077912. The patient identifier is mentioned as 'CSNIP75842'. A perusal of the medical record further reveals that the life assured had taken necessary treatment in Third Floor, 3rd B Ward, Bed No. 1326 of Apollo Hospital, Chennai. Even as per the medical reports, dated 16.01.2019 that the life assured is a known case of *'Mantle Cell Lymphoma'*. A perusal of Ex.B-5 clearly reveals that the life assured has taken treatment in Apollo Hospital, Chennai from 12.01.2019 to 22.01.2019. A perusal of Ex.B-4 clearly reveals that the Investigator collected the necessary documents from Apollo Hospital, Chennai. By any stretch of imagination it cannot be presumed that the life assured came to know, for the first time, on 17.02.2019 that he is suffering from cancer. Basing on Ex.B-5, the irresistible conclusion that can be drawn is that the

> life assured is very much aware that he is suffering from cancer from 12.01.2019. Knowing fully well that the life assured is suffering from cancer, intentionally and wilfully not disclose the said fact in Ex.B-1, Health Declaration Form. Suppression of such information is nothing short of suppression of the material information. Had the life assured disclosed correct information with regard to his health condition, there is an opportunity to the opposite parties 1 and 2 either to accept or reject the proposal of the life assured. Obtaining of the policy by suppressing material information enables the insurer to repudiate the claim."

5) Challenging the order of SCDRC, complainant filed First Appeal No.664 of 2022 before NCDRC at New Delhi. The Commission after examining pleadings and relevant documents placed on record, formulated a question as to "Whether the insured provided false information or concealed material fact regarding the health condition of deceased life assured while applying for the insurance policies?"

6) After appreciating submissions made on behalf of complainant / appellant, learned National Commission dismissed appeal by recording finding that deceased life assured failed to disclose his medical condition while obtaining insurance policy. Reliance was also placed on decisions of Hon'ble Supreme Court of India in ***Bajaj Allianz Life Insurance Company Ltd., Vs. Dalbir Kaur***[1] and ***Reliance Life Insurance Co. Ltd., Vs. Rekhaben Nareshbai Rathod***[2]***.***

7) In view of dismissal of Appeal, complainant filed present Writ Petition.

8) Learned counsel for petitioner / complainant made submissions, *inter alia* that Writ Petition against the orders passed by NCDRC is maintainable

[1] 2020 SCC OnLine SC 848
[2] (2019) 6 SCC 175

and objection raised in this regard in counter affidavit is not sustainable. To buttress the submission, he relied on the decision of Hon'ble Supreme Court of India in ***Universal Sompo General Insurance Co. Ltd., Vs. Suresh Chand Jain and Another***[3]***.*** Learned counsel also contended that there was no concealment or non-disclosure of any information by deceased life assured, since he came to know about the health condition only on 28.01.2019 i.e., after submitting Health Form. He submits that merely because husband of complainant had taken treatment on 18.01.2019 and underwent some tests, it cannot be presumed that he was suffering from cancer as on 18.01.2019. Further, finding of learned State Commission in this regard is based on surmises and conjectures and learned National Commission erred in confirming the same. In any event, learned counsel submits that orders impugned in the Writ Petition are legally unsustainable and liable to be quashed in exercise of powers under Article 226 of the Constitution of India.

9) Learned counsel for respondent Insurance Company while refuting the said contentions, made submissions to sustain orders under challenge.

10) This Court has considered submissions made on both sides and perused material on record.

11) Apropos maintainability of Writ Petition, a preliminary objection was raised by respondent-insurance company. However, the same is not sustainable in the light of decision of Hon'ble Supreme Court of India in

[3] (2024) 9 SCC 148

Universal Sompo case (3 supra). Aggrieved by orders of NCDRC, confirming order passed by SCDRC of Delhi, said Insurance Company carried matter to Hon'ble Supreme Court. After referring to relevant provisions of the Consumer Protection Act, 1986, which was repealed on 20.07.2020 and the Consumer Protection Act, 2019, at para No.17 Hon'ble Supreme Court of India held as follows:

> "**17.** A plain reading of the aforesaid provisions of the 1986 Act and the 2019 Act, respectively, would indicate that the remedy of appeal to this Court is available only with respect to the orders passed by NCDRC in exercise of its powers conferred by Section 21(*a*)(*i*) of the 1986 Act and Section 58(1)(*a*)(*i*) or 58(1)(*a*)(*ii*) of the 2019 Act. In other words, both the Acts provide for the remedy of appeal to this Court only with respect to the orders which are passed by NCDRC in its original jurisdiction or as the court of first instance (original orders) and no further appeal lies against the orders which are passed by NCDRC in exercise of its appellate or revisional jurisdiction."

12) After detailed analysis of legal precedents, Hon'ble Supreme Court ultimately concluded that petitioner Insurance Company has to first go before jurisdictional High Court either by way of Writ Petition under Article 226 of the Constitution or by invoking supervisory jurisdiction of High Court under Article 227 of Constitution of India. Liberty was also afforded to petitioner insurance company to approach the jurisdictional High Court and challenge order passed by NCDRC.

13) In the light of the above legal position, Writ Petition is maintainable and objection contra is rejected.

14) In so far as merits are concerned, this Court has carefully gone through the record.

15) As per Group Credit Life Secure Application-cum-Health Declaration Form (EX.P15), deceased life assured was required to make a declaration of good health *inter alia* that in the last five years, he has not undergone any investigations (including basic radiological and blood tests) other than normal health checkups and insurance medicals etc. Material placed on record goes to indicate that prior to such declaration, deceased life assured got several clinical tests done. Most importantly, as per investigation report (Ex.P.4) dated 30.04.2019, husband of complainant was admitted in Apollo Hospitals, Chennai and investigator collected relevant medical record from Apollo Hospital. As per brief clinical history in Histopathology report (Pg.136), "patient is a 61 year old gentleman with clinical diagnosis of Lymphoma". Tests in the said hospital were conducted prior to submission of declaration form dated 25.01.2019. Even though learned counsel for petitioner / complainant sought to impress upon that a copy of histopathology report was furnished on 28.01.2019, therefore, husband of petitioner cannot be expected to know about disease so as to disclose the same in declaration form, we are not inclined to appreciate it, in view of reports, which were based on collection of samples on different dates i.e., 11.01.2019; 12.01.2019; 16.01.2019 and 18.01.2019 and Discharge Summary of Apollo Hospital dated 08.02.2019 (Pg.140). Material on record, clearly leads to an irresistible conclusion that husband of complainant was well aware of diagnosis / disease, but had not disclosed relevant information before submitting health declaration from i.e.,

Ex.B1 dated 25.01.2019. Therefore, this Court has no option except to reject submissions even on merits.

16) Both SCDRC and NCDRC have recorded cogent reasons for rejecting claim made by complainant / writ petitioner. Scope of judicial review in a matter of this nature is limited. Unless order challenged suffers from patent illegalities or statutory violations, same cannot be set aside / quashed. This Court finds no ground to interfere with the impugned orders.

17) Accordingly, Writ Petition is dismissed. No costs.

18) Consequently, Miscellaneous Applications pending, if any, shall also stand dismissed.

(LISA GILL)
CHIEF JUSTICE

(NINALA JAYASURYA)
JUDGE

Date: 27.04.2026
Ssv

THE HONOURABLE CHIEF JUSTICE Mrs.LISA GILL

THE HONOURABLE Mr.JUSTICE NINALA JAYASURYA

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