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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2148/2026

STAR HEALTH AND ALLIED INSURANCE COMPANY LIMITED
HAVING ITS REGISTERED AND CORPORATE OFFICE AT 1, NEW TANK STREET, VALLUVAR KOTTAM HIGH ROAD, NUNGAMBAKKAM, CHENNAI AND ITS REGIONAL OFFICE AT 4TH FLOOR, GANAPATI ENCLLAVE,, ABOVE KOTAK MAHINDRA BANK,, G.S.ROAD, BORA SERVICE, ULUBARI, GUWAHATI- 781005 REPRESENTED BY SRI RAKTIM KUMAR PHUKAN, ASSISTANT GENERAL MANAGER (CLAIMS), REGIONAL OFFICCE AT GUWAHATI

VERSUS

THE INSURANCE OMBUDSMAN AND ANR
GUWAHATI CENTRE, JEEVAN NIVEH, 5TH FLOOR, S.S. ROAD, PANBAZAR, GUWAHATI- 781001

2:MR. RAMESH CH. KALITA
RESIDENT OF VILLAGE AND P.O.- PANITEMA

VIA CHANGSARI
NORTH GUWAHATI PORT
DISTRICT- KAMRUP
ASSAM
PIN- 78110

Advocate for the Petitioner : MR. A BHATTACHARYYA, MR N BARMAN

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

24.04.2026

An Award dated 18.02.2026 passed by the learned Insurance Ombudsman, Guwahati is the subject matter of challenge in this writ petition instituted by the petitioner-Star Health and Allied Insurance Company Ltd.

2. As per facts projected, the respondent no. 2 had taken a family floater health insurance policy from the petitioner Company in the year 2020 and the same was renewed from time to time. During the subsistence of the said policy, the wife of the respondent no.2, who was also covered by the said policy, was admitted in the hospital on 12.05.2025 for diagnosis of Grade-III OA knee and subsequently, a claim was raised for reimbursement of the medical expenditure. In the discharge summary, however, it was noted that the insured had undergone a High Tibial Osteotomy (HTO) in the year 2013 on the right knee and it has been projected that this medical condition has a direct connection with the present treatment. On the ground that the insured had not disclosed the medical condition at the time of inception of the policy, the claim was rejected by invoking Clause 3 of the terms and conditions of the Policy. The said repudiation was the subject matter of challenge before the learned Insurance Ombudsman. The learned Ombudsman vide the aforesaid Award dated 18.02.2026 has, however, accepted the complaint of the respondent no. 2 and had directed the petitioner to pay the expenses incurred for the treatment and this Award is the subject matter of challenge in this petition.

3. I have heard Shri A. Bhattacharjee, learned counsel for the petitioner-Insurance Company.

4. Shri Bhattacharjee, learned counsel for the petitioner has submitted that the policy had a condition to disclose all pre-existing ailments, which was not done. He has also submitted that in the Diagnostic Report of the present treatment, it was disclosed that the wife of the respondent no. 2 had undergone a treatment of her right knee and the present treatment is connected with the earlier treatment. He has submitted that under Clause 3 of the Terms and Conditions, there is a requirement of disclosure of any pre-existing ailment and if such pre-existing ailment is there, a claim can be made only after 48 months of the inception of the Policy. He has submitted that even for making such a claim, the requirement of disclosure is necessary. He has submitted that the repudiation was made in accordance with law and the findings of the learned Ombudsman are incorrect which requires interference of this court.

5. At the outset, this Court has looked into the aspect of the nature of the order passed by the learned Ombudsman which is final in character and therefore, this Court is of the opinion that a writ petition would be maintainable. The petitioner has, however, sought to invoke the certiorari jurisdiction. Law is well settled on the contours for such invocation of certiorari jurisdiction.

6. In the case of ***Central Council for Research in Ayurvedic Sciences & Anr. Vs. Bikartan Das & Ors.*** **[Civil Appeal No. 3339 of 2023]**, the following has been laid down:

> "*49. Before we close this matter, we would like to observe something important in the aforesaid context: Two cardinal principles of law governing exercise of extraordinary jurisdiction under Article 226 of the Constitution more particularly when it comes to issue of writ of certiorari.*
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> *50. The first cardinal principle of law that governs the exercise of extraordinary*

jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

51. The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not."

7. The law of insurance is one which is based on the maxim of *uberrima fide* which means utmost good faith. In the instant case, it is seen that the wife of the respondent no. 2 had undergone a treatment of her right knee in the year 2013 and long thereafter in the year 2020, the present policy was purchased. It is not in dispute that every year, there was renewal of the policy by payment of a huge premium and such renewal is necessarily preceded by a medical examination. No such claim was admittedly made within 48 months of entering into the policy on 28.09.2020 and only on the fifth year, the wife of the respondent no.2 had to undergo a treatment. The repudiation was made on the ground that the treatment done in the year 2013 is connected with the present treatment undergone in the year 2025. The learned Ombudsman has, however, held that though the treatment may be similar, it cannot be held that the same is a continuous process. This Court is of the opinion that the learned Ombudsman, apart from recording the apposite reasons to come to the conclusion has also taken into consideration all the relevant facts and circumstances.

8. This Court is also of the opinion that the treatment received by the wife of the respondent no.2 in the year 2013 cannot said to be proximate to the present treatment which has been received after more than 12 years. In any case, the policy was purchased after about 7 years, from the treatment of 2013 and therefore, the policy which is mainly to cover the life and health would not suffer from any case of non-disclosure, inasmuch as sufficient time of 7 years had elapsed. What is also important to note that the Policy was renewed from time to time and it was only in the fifth year that the wife of the respondent no.2 had to undergo a treatment for which, the claim was made. It is not in dispute that the claim is only for the expenses incurred for the treatment and not a claim which is based on speculation. This Court is of the opinion that the repudiation is wholly unfair whereby the lawful claim of the respondent no. 2 was rejected and this aspect has been taken care of by the learned Ombudsman. This Court is in agreement with the conclusion arrived at by the learned Ombudsman. This Court is also of the view that the order of repudiation cannot take the support of the maxim of *uberrima fide*, inasmuch as there is no material that there was lack of utmost good faith while entering in to the contract with the Insurance Company.

9. In view of the above, the writ petition stands dismissed.

10. No order as to cost.

JUDGE

Comparing Assistant