2020 S C M R 463

[Supreme Court of Pakistan]

Present: Manzoor Ahmad Malik, Sardar Tariq Masood and Syed Mansoor Ali Shah, JJ

STATE LIFE INSURANCE CORPORATION OF PAKISTAN and another---Petitioners

Versus

MUZAFAR ALI---Respondent

Civil Petition No. 1631-L of 2018, decided on 20th March, 2019.

(On appeal from the judgment of Lahore High Court, Lahore dated 14.5.2018 passed in R.F.A. No. 605 of 2014)

Insurance Ordinance (XXXIX of 2000)---

----S. 115---Qanun-e-Shahadat (10 of 1984), Art. 133---Accidental Death and Indemnity Benefit Policy ('AIB Policy')---Injury and permanent disability---Proof---Statement made by policy holder during examination-in-chief regarding his accident and permanent disability not cross-examined---Effect---Statement of policy holder stood admitted.

Evidence available on the record established that respondent-policy holder was suffering from traumatic paraplegia and was permanently disabled for life. This could be inferred from his statement, when he appeared before the (Insurance) Tribunal. Respondent was not, cross-examined on the material fact that he had met with an accident and was disabled and now confined to wheelchair for life. In absence of any cross-examination on this material fact, the statement made by respondent in his examination- in-chief stood admitted.

Further, State Life Insurance Corporation ('the Corporation') itself carried out a test in the year 2008, declaring respondent to be disabled for life. More importantly, relying on the evidence filed along with the claim of respondent, the Corporation allowed sickness benefit to the respondent. So, while relying on the same evidence, the respondent had been allowed sickness benefit, whereas for the purpose of granting annuity to him under the Accidental Death and Indemnity Benefit Policy ('AIB Policy'), the same evidence had been rejected. Courts below had rightly held that respondent was entitled to annuity under the AIB Policy.

Ibrar Ahmed, Advocate Supreme Court and Imtiaz A. Shaukat, Advocate-on-Record for Petitioners.

Liaqat Ali Butt, Advocate Supreme Court for Respondent.

Date of hearing: 19th March, 2019.

JUDGMENT

SYED MANSOOR ALI SHAH, J,---The respondent held a life insurance policy ("Policy") in the sum of Rs.500,000/-, issued by the State Life Insurance Corporation (petitioner), dated 01.2.2004, and along with said policy, the respondent through a supplementary contract also held the Accidental Death and Indemnity Benefit Policy ("AIB Policy") for an additional premium. Admittedly, during the currency of the said policies, respondent met with a road accident in United Kingdom on 13.1.2006 and subsequently filed a claim under the AIB Policy.

2. Learned counsel for the petitioner has argued that the claim of the respondent was not maintainable as it was not filed within the time stipulated in the Policy. He also argued that there is no evidence on the record to establish that respondent had suffered permanent disability and that in the facts of the case, liquidated damages could not have been imposed on the petitioners. During the course of arguments, he submitted that on the basis of the claim submitted by the respondent, he was granted sickness benefit in the sum of Rs.130,000/- under the said policy.

3. Learned counsel for respondent on the other hand supported the judgments of the Tribunal and the High Court and submitted that it has been established that respondent suffered from permanent disability and was entitled to the annuity under the AIB policy.

4. We have heard the learned counsel for the parties at some

length and perused the record. The question regarding late filing of the claim was not framed as an issue between the parties before the Tribunal and, therefore, we are not inclined to go into that question. As far as the factum of respondent having met with an accident in United Kingdom resulting in permanent disability is concerned, while we agree with the learned counsel for the petitioners that reliance cannot be placed on Mark-A and Mark-B produced by respondent along with his claim, there is still other evidence available on the record which establishes that respondent is suffering from trauamatic paraplegia and is permanently disabled for life. This can be inferred from the statement of respondent, who appeared before the Tribunal as AW-1. Respondent was not cross-examined on the material fact that he had met with an accident and was disabled and now confined to wheelchair for life. In absence of any cross-examination on this material fact, the statement made by respondent in his examination- in-chief stands admitted. Further, petitioner Corporation itself carried out a test in the year 2008, declaring respondent to be disabled for life. More importantly, relying on the evidence filed along with the claim of respondent, petitioner Corporation allowed sickness benefit in the sum of Rs.130,000/- to respondent. So, while relying on the same evidence, the petitioners have been allowed sickness benefit, whereas for the purpose of granting annuity to the respondents under the AIB policy, the same evidence has been rejected.

5. As far as liquidated damages are concerned, section 118 of the Insurance Ordinance, 2000 provides that in case of late settlement of claims, the insurer is bound to make payment of liquidated damages as provided under section 118(2). It is, therefore, a statutory requirement and is attracted in the present case.

6. For the above reasons and in the peculiar facts and circumstances of this case, we are not inclined to interfere in the concurrent judgments of the Courts below. Leave is, therefore, refused and this petition is dismissed.

MWA/S-4/SC Petition dismissed.