

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P.No.42237 OF 2022**

**Between:**

Cheemala Nagendra Babu

**... Petitioner**

**And**

SBI Life Insurance Company Limited & another

**... Respondents**

**JUDGMENT PRONOUNCED ON: 26.02.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

---

**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P.No.42237 OF 2022****% 26.02.2024****Between:**

# Cheemala Nagendra Babu

**... Petitioner****And**

\$ SBI Life Insurance Company Limited &amp; another

**... Respondents**

&lt; Gist:

&gt; Head Note:

**! Counsel for the Petitioner : Mr. Ramesh Bura****^ Counsel for Respondent : Mr. Srinivas Karra**

? Cases Referred:

(1) (2008) 1 SCC 321

(2) (2001) 2 SCC 160

**HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 42237 of 2022****ORDER:**

Heard Mr.Ramesh Bura, learned counsel appearing on behalf of the Petitioner and Mr. Srinivas Karra, learned counsel appearing on behalf of the respondents.

**2. PRAYER :**

Petitioner approached the Court seeking prayer as under :

"To issue Writ order or direction more in the nature of Mandamus declaring the impugned Ref: 4334212/OPS/22-23/CL/R/93941 Dated:04/07/2022 issued by Respondents, repudiating the insurance death claim, under the Policy No.1G401794406 on the life of Late Cheemala Ramaswamy under plan UIN: 111N089V03, on the ground of 'suppression of material fact', is illegal, arbitrary and violation of Articles 14 and 21 of Constitution of India and consequently set aside the impugned Ref:4334212/OPS/22-23/CL/R/93941 Dated: 04.07.2022 issued by Respondents and direct the Respondents to release the insurance claim to the petitioner with simple interest at the rate of 18 percent per annum in the interest of justice."

**3. PERUSED THE RECORD :**

**The order impugned dated 04.07.2022 issued by the Respondents vide Ref. 4334212/OPS/22-23/CL/R/93941, reads as under:**

"This is with reference to your claim under the policy no.1G401794406 on the life of Late Cheemala Ramaswamy. We are sad to note the unfortunate demise of Late Cheemala Ramaswamy.

On scrutiny of claim documents, we have noted that in the proposal for insurance dated 19/10/2019, Late Cheemala Ramaswamy had answered the questions in the proposal form as follows:

Do you have any other individual life insurance policy (from SBI Life or any other life insurer) or have you applied for one?								Yes
Name of Insurance Company	Policy/ Proposal	Year of Issue	Product/ Plan/Rider/ Option	Medical (Y/N)	Yearly Premium (Rs.)	Sum Assured (Rs.)	Self/Spouse/ Parent (Pls.specify)	Policy Status
ICICI PRUDENTIAL	44130995	2019	ICICI Pru Improtect smart	Y	20233	Rs.10000000	Self	In Force

But Late Cheemala Ramaswamy had not disclosed details of Policy availed from Exide Life Insurance Company in 2018.

Life insurance contract is a contract of utmost good faith. This policy was issued on the basis of the information disclosed in the proposal form believing the information to be true. However, we have sufficient evidence to prove that Late Cheemala Ramaswamy had

not disclosed details of other Life insurance policy held by him at the time of submission of the proposal form.

As these material facts were not disclosed in the proposal form, the claim is hereby repudiated on the grounds of suppression of material facts.

Please note that an amount of Rs.54720/- (Fifty Four Thousand Seven Hundred Twenty Only) has been transferred to your saving account no: \*\*\*4063 held in State Bank Of India, NRI Branch Khammam branch, on 29/06/2022, as per terms and conditions of the policy.

In case, you are not satisfied with the above decision and feel that we have not considered any particular facts and circumstances in support of your claim, you may send your representation for re-consideration of your claim to our Claims Review Committee, situated at the following address:

Head Claims, SBI Life Insurance Co.Ltd, 8<sup>th</sup> Level,  
Seawoods Grand Central, Tower 2, Plot No.R-1, Sector –  
40, Seawoods, Nerul Node, Navi Mumbai-400706.

The decision taken by the Committee would be communicated to you.

Thanking You,

Yours sincerely,

AVP – Claims, SBI Life Insurance Company Ltd.  
Ph:022-66456509, [Claims@sbilife.co.in](mailto:Claims@sbilife.co.in)

This is a system generated letter and does not require any signature."

**4. Counter affidavit filed by the Respondents, in particular, Paras 4 to 10 read as under :**

4. It is submitted that the Deceased Life Assured, Mr.Cheemala Ramaswamy (hereinafter referred to as the "DLA") had applied for SBI Life –E Shield- Level Term vide proposal bearing No.1GPZ073593 dated 19/10/2019. A copy of the proposal form is appended as ANNEXURE-A. That in reply to the question in the proposal form, 'Do you have any other Individual life insurance policy or have you applied for one?', the DLA disclosed details of insurance policy with ICICI prudential life insurance Company Ltd with Rs.1 crore cover only. In this context it is submitted that in the proposal form, it was declared that the answers and particulars given by him are true and complete in all respects to the best of my knowledge.

5. It is submitted that on the basis of the information furnished in the proposal form and relying on the information to be true and accurate, the proposal form was accepted and SBI Life-E shield policy bearing No.1G401794406 was issued with date of commencement 31.10.2019 for the Basic Sum Assured of Rs.1 crore for a term of 7 years. A copy of the policy document is appended as ANNEXURE-B.

6. It is submitted that Mr.Cheemala Ramaswamy is reported to have died on 15.01.2022. The claim intimation was received on 04.04.2022. A copy of the claim intimation is appended as ANNEXURE-C.

7. It is submitted that during the assessment of claim, it was revealed that the DLA was holding policy of Exide Life Insurance with risk commencement dated as 04.03.2018 for a sum assured of Rs.82 lakhs. Further, a confirmation was taken recently from Exide life insurance recently. Copies of mail received from Exide life is appended as ANNEXURE-D colly.

8. It is submitted that as the DLA did not disclose the details of his previous life insurance policy of Rs.82 lakhs, the Answering Respondent was deprived of a chance to properly assess the risk on the life of the DLA. Thus, the answer to the question in the proposal form regarding existing proposal/policies for life insurance is very vital for the proper assessment of risk by the Company.

9. Thus it is clear that the DLA had committed a breach of doctrine of Utmost Good Faith by not disclosing the details regarding the existing insurance policy and thereby availed the insurance cover fraudulently from the Answering Respondent. The amount of insurance cover to be granted depends on the human life value of the individual to be insured. Any disproportionate

insurance will increase the moral hazard and a question arises with regard to the insurable interest. The details of the insurance cover proposed is a vital fact for assessing risk and sum assured that can be granted under the insurance policy. Any disproportionate insurance cover will affect the insurer adversely. It is submitted that any suppression of material facts in the proposal form will render the insurance cover invalid in respect of the insured. Details of existing life insurance policy by the proposer helps the Insurance Company to determine whether the sum assured proposed is commensurate with his/her standard of living and earning capacity. If the proposer misstates his/her existing Insurance details and obtains the insurance cover fraudulently, any subsequent revelation of mis-statement or suppression of existing insurance details would render the insurance cover void ab initio. In such circumstances, the Insurer is well within its contractual rights to repudiate the death claim.

10. It is therefore this insurance company repudiated the claim under the policy and an amount of Rs.54,720/- was refunded on 29.06.2022 to the nominee's account. The same has been informed to the complainant vide letter dated 04.07.2022. A copy of the claim repudiation letter is appended as ANNEXURE-E."



**5. Case of the Petitioner as per the averments made in the affidavit filed in support of the Writ Petition is as under :-**

**a. The father of the Petitioner namely Late Cheemala Ramaswamy worked as Line Inspector at TSNPDCL. He took life insurance policy (SBI Life-e-Shield Level Cover) Policy No.1G40179446, proposal No.IGPZO73593, dated 19.10.2019 with the Respondents SBI Life Insurance Corporation Limited for Sum assured of Rs.1,00,00,000/-. The total premium amount per annum is Rs.21,524/-. The Petitioner is the said nominee in the said policy and the father of the Petitioner namely Late Cheemala Ramaswamy died on 15.01.2022 who is the Deceased/Insured.**

**b. It is further the case of the Petitioner that when the Petitioner claimed the Death Claim, Respondents Corporation repudiated the Insurance claim on the ground of suppression of material facts vide Ref.4334212/OPS/22-23/CL/R/93941, dated 04.07.2022. The Respondents Corporation alleged that the Deceased/Insured name Late Cheemala**

Ramaswamy had not disclosed details of Policy availed from Exide Life Insurance Company in 2018. Aggrieved by the same the Petitioner filed the present writ petition.

6. The learned counsel appearing on behalf of the Petitioner mainly puts forth the following submissions :

i. The Deceased/Insured namely the father of the Petitioner Late Cheemala Ramaswamy did not suppress the previous Insurance Policies.

ii. The Insurance Agent had filled up the Online proposal form by following instructions of the Online Executive of the Respondents Insurance Corporation.

iii. In the proposal for Insurance dated 19.10.2019 the Deceased/Insured namely late Cheemala Ramaswamy replied to a question in the proposal form as follows :

Question	Answer of the Deceased/Insured
Do you have any individual life insurance policy (from SBI Life or any other life insurer) or have you applied for one?	Yes

iv. The Insurance Proposal Form did not ask further question regarding the details of the previous proposals of policies and there was no question posed to the Petitioner to furnish the details of the proposals of the Insurance policies.

v. Though the proposal form did not consist a specific query to furnish the details of proposals of insurance policies, yet in fact the Petitioner himself gave the details of ICICI Prudential Policy No.44130995 as example, but however, on the ground that the Deceased/Insured late Cheemala Ramaswamy had another policy availed from Exide Life Insurance Company in 2018 which was not disclosed by him, the Respondents had issued the order impugned dated 04.07.2022 against the Petitioner who is the nominee of the said policy in the capacity of Son of the Deceased/Insured namely Late Cheemala Ramaswamy.

vi. There is no suppression on the part of the Deceased/Insured since late Cheemala Ramaswamy rightly answered as 'Yes' to the specific query in the proposal form and the Deceased/Insured had no

intention to suppress fact of policy availed from Exide Life Insurance Company since the meaning of “non-disclosed” cannot be equated with the word suppression.

7. On the basis of the above said pleas the Learned Counsel for the Petitioner contended that it is false to say that there was suppression of material fact by late Cheemala Ramaswamy under Plan UIN:111N089V03 under the Policy No.1G401794406 and contended that therefore the Writ Petition should be allowed as prayed for since the order impugned is in clear violation of Article 14 and 21 of the Constitution of India.

8. The Learned Counsel appearing on behalf of the Respondents placing reliance in the averments made in the Counter Affidavit filed on behalf of the Respondents mainly puts forth the following submissions :

- i. Mr. Cheemala Ramaswamy died on 15.01.2022 and the claim intimation is received on 04.04.2022 and during the assessment of the claim it was revealed that

the Deceased Life Assured, Mr. Cheemala Ramaswamy who had applied for SBI Life-E Shield-Level Term vide Proposal bearing No. 1GPZ073593, dated 19.10.2019, was holding Policy of Exide Life Insurance with risk commencement date as 04.03.2018 for a sum assured of Rs.82 lakhs and since the deceased life assured Mr. Cheemala Ramaswamy did not disclose the details of his previous life insurance policy of Rs.82 lakhs, the Respondents were deprived of a chance to properly assess the risk on the life of the deceased life assured and hence the deceased life assured had committed a breach of Doctrine of Utmost Good Faith by not disclosing the details regarding the existing insurance policy and thereby availed the insurance cover fraudulently from the Respondents.

- ii. Any suppression of material facts in the proposal form will render the insurance cover

invalid in respect of the insured and hence the insurer is well within its contractual rights to repudiate the death claim and accordingly the Insurance Company repudiated the claim under the policy and an amount of Rs.54,720/- was refunded on 29.06.2022 to the nominee's account and the same was informed to the complainant vide letter dated 04.07.2022.

- iii. The Petitioner bypassed alternative remedies like filing complaint before Consumer Forum, Civil Court and approached the Court by filing the present writ petition.
- iv. The learned counsel appearing on behalf of the Respondents based on the aforesaid submissions contended that the action to repudiate the claim is as per the terms and conditions of the policy and the prayer of the Petitioner is not tenable and hence the writ petition has to be dismissed.

## **DISCUSSION AND CONCLUSION**

### **9. Section 45 of the Insurance Act reads as under :**

**"Section 45. Policy not to be called in question on ground of mis-statement after two years.**

(1) No policy of life insurance shall be called in question on any ground whatsoever after the expiry of three years from the date of the policy, i.e., from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later.

(2) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground of fraud:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

*Explanation 1.* --For the purposes of this sub-section, the expression "fraud" means any of the following acts committed by the insured or by his agent, with intent to deceive the insurer or to induce the insurer to issue a life insurance policy: --

- (a) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;
- (b) the active concealment of a fact by the insured having knowledge or belief of the fact;
- (c) any other act fitted to deceive; and

- (d) any such act or omission as the law specially declares to be fraudulent.

*Explanation II.* --Mere silence as to facts likely to affect the assessment of the risk by the insurer is not fraud, unless the circumstances of the case are such that regard being had to them, it is the duty of the insured or his agent keeping silence, to speak, or unless his silence is, in itself, equivalent to speak.

(3) Notwithstanding anything contained in sub-section (2), no insurer shall repudiate a life insurance policy on the ground of fraud if the insured can prove that the misstatement of or suppression of a material fact was true to the best of his knowledge and belief or that there was no deliberate intention to suppress the fact or that such misstatement of or suppression of a material fact are within the knowledge of the insurer:

Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.

*Explanation.* --A person who solicits and negotiates a contract of insurance shall be deemed for the purpose of the formation of the contract, to be the agent of the insurer.

(4) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground that any statement of or suppression of a fact material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived or rider issued:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and



materials on which such decision to repudiate the policy of life insurance is based:

Provided further that in case of repudiation of the policy on the ground of misstatement or suppression of a material fact, and not on the ground of fraud, the premiums collected on the policy till the date of repudiation shall be paid to the insured or the legal representatives or nominees or assignees of the insured within a period of ninety days from the date of such repudiation.

*Explanation.* --For the purposes of this sub-section, the misstatement of or suppression of fact shall not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured.

(5) Nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.]”

**10. A bare perusal of the aforesaid section indicates that the same is restrictive in nature and is based on 3 conditions for applicability of the second part of the section namely :**

**(a) the statement must be on a material matter or must suppress facts which it was material to disclose;**

**(b) the suppression must be fraudulently made by the policy-holder; and**

**(c) the policy-holder must have known at the time of making the statement that it was false or that it suppressed facts which it was material to disclose.**

**11. A bare perusal of the order impugned dated 04.07.2022, referred to and extracted above, issued to the Petitioner by the Respondents indicates that the only ground for issuing the said impugned order against the Deceased/Insured late Cheemala Ramaswamy is that the said person had not disclosed details of other life insurance policy held by him at the time of submission of the proposal form and since this material fact was not disclosed in the proposal form by him, hence his claim had been repudiated on the ground of suppression of material facts.**

**12. This Court opines that it is true that non-disclosure of any material particular or material information can entitle the Respondents to invalidate the policy and**

**forfeit the premium, however the said clause has to be read in a reasonable manner.**

13. The Apex Court in the judgment reported in (2008) 1 SCC 321 in P.C. Chacko and Another Vs. Chairman, Life Insurance Corporation of India & Others held in relation to Sec.45 of the Insurance Act, 1938 that misstatement by itself was not material for repudiation of the policy unless the same is material in nature, a proposal can be repudiated if a fraudulent act is discovered.

14. **The Apex Court in the judgment reported in (2001) 2 SCC 160 in Life Insurance Corporation of India & Others Vs. Asha Goel (Smt. & Another) observed in its head note at para 10 as under :**

**“Para 10 : Article 226 of the Constitution confers extraordinary jurisdiction on the High Court to issue high prerogative writs for enforcement of the fundamental rights or for any other purpose. It is wide and expansive. The Constitution does not place any fetters on exercise of the extraordinary jurisdiction. It is left to the discretion of the High Court. Therefore, it cannot be laid down as a**

general proposition of law that in no case the High Court can entertain a writ petition under Article 226 of the Constitution to enforce a claim under a life insurance policy. It is neither possible nor proper to enumerate exhaustively the circumstances in which such a claim can or cannot be enforced by filing a writ petition. The determination of the question depends on consideration of several factors like, whether a writ petitioner is merely attempting to enforce his/her contractual rights or the case raises important questions of law and constitutional issues, the nature of the dispute raised; the nature of inquiry necessary for determination of the dispute etc. The matter is to be considered in the facts and circumstances of each case."

15. This Court opines that the Deceased/Insured in all fairness answered as 'yes' to the specific query i.e., the query 'do you have any individual life policy' (from SBI Life or any other life insurer) or have you applied for one? And since there was no query in the proposal form if 'yes' to give the details of the proposals of the insurance policies, the Deceased/Insured had not stated the details of other life insurance policy held by him at the time of submission of the proposal form and

hence the Respondents herein cannot avoid the policy on ground of misstatement of the said facts.

16. This Court is of the firm opinion that the Deceased/Insured late Cheemala Ramaswamy furnished an answer 'yes' to the specific query asked for in the proposal form and discharged his solemn obligation to make a true and full disclosure of the information on the subject which is within his knowledge, but however, since there was no query to give the details of the proposals of insurance policies he did not disclose the same. This Court is of the firm opinion that the Deceased/Insured late Cheemala Ramaswamy having given the details of ICICI Prudential Policy No.44130995 on his own though there was no query in the proposal form to give the details of the proposals of the insurance policies had no any *mala fide* intention to suppress his another policy availed from Exide Life Insurance Policy in 2018 year or to play any fraud and infact the burden of proof is on the insurer to establish the same and unless the insurer is able to do so there is no question of the policy being

**avoided on the ground of misstatement of facts or suppression of facts.**

17. Taking into consideration the above said facts and circumstances of the case and the law laid down by the Apex Court in the judgment reported in (2001) 2 SCC 160, referred to and extracted above, this Court opines that the order impugned is passed mechanically without assigning any reasons in the impugned order dated 04.07.2022 vide Ref. 4334212/OPS/22-23/CL/R/93941 issued by the Respondents, except stating that late Cheemala Ramaswamy had not disclosed the details of other life insurance policy held by him at the time of submission of his proposal form when admittedly the proposal form itself did not indicate such a query/question to be answered by the applicant, hence the Writ Petition is allowed, the impugned order dated 04.07.2022 vide Ref. 4334212/OPS/22-23/CL/R/93941 issued by the Respondents is set aside and the matter is remitted back to the Respondents to reconsider the Petitioner's claim under the Policy No.1G401794406 on the life of late Cheemala

**Ramaswamy under plan UIN:111N089V03 within a period of 2 weeks from the date of receipt of the copy of the order in accordance to law, in conformity with principles of natural justice, by giving reasonable opportunity to the Petitioner, taking into consideration the observations of this Court made in the present order and duly communicate the decision to the Petitioner. However, there shall be no order as to costs.**

Miscellaneous petitions, if any pending, in this writ petition shall stand closed.

---

**SUREPALLI NANDA, J**

Date: 26.02.2024

**Note** : L.R. Copy to be marked.  
B/o. *Yvkr*