

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Ijaz ul Ahsan

Mr. Justice Syed Hasan Azhar Rizvi

Mr. Justice Irfan Saadat Khan

AFR

Civil Appeal No.343-L of 2020

(Against the judgment dated 15.10.2020 of the Lahore High Court,
Lahore passed in Insurance Appeal No.171 of 2016)

State Life Insurance Corporation of
Pakistan and another

...Appellant(s)

Versus

Mst. Zubeda Bibi

...Respondent(s)

For the Appellant(s)	: Mr. Ibrar Ahmed, ASC
For Respondent No.1	: Mr. Imran Muhammad Sarwar, ASC
For the Federation	: Mr. Asad Ullah Khan, Additional Attorney General for Pakistan
Date of hearing	: 13.12.2023.

JUDGMENT

Syed Hasan Azhar Rizvi, J. Through the instant appeal under Article 185(2)(d) of the Constitution of the Islamic Republic of Pakistan, 1973, the appellant/department has called in question the judgment dated 15.10.2020 passed by the Lahore High Court whereby insurance appeal filed by the respondent/lady (*widow of Abdul Rasheed*) was allowed in the following terms:-

"Resultantly, this appeal is allowed, the order/judgment dated 07.05.2015, passed by the learned Insurance Tribunal Punjab, Lahore is set aside and the suit for recovery of claim amount filed by the appellant is decreed along

with the liquidated damages as prescribed under Section 118 of the Insurance Ordinance, 2000. No order as to costs."

2. Tersely, facts of the case leading to filing of the instant appeal are that on 10.07.2001, the husband of the respondent, namely, Abdul Rasheed, purchased an insurance policy bearing No.506812423-3 in the sum of Rs.500,000/- from the appellant on the basis of yearly premium of Rs.39,740/- and chosen the respondent, namely, Mst. Zubeida Bibi, as his nominee. The said premium/amount was paid upto 2002.

3. Abdul Rasheed died in a road accident on 24.01.2003 and a report in this regard was lodged with the Police Station Sherakot Lahore by Ghazanfar Ali (*a stranger*) so also sons of the deceased, namely, Ghulam Ali and Gulam Bari, who got recorded their statements before the police that they do not want to conduct the post-mortem examination.

4. After completion of necessary formalities, the police handed over the dead body of the deceased to his sons, who accordingly buried their father in the village. The respondent being a nominee filed a claim with the appellant, but could not succeed, thus a suit for recovery of insurance claim was filed on 10.11.2003 in the Court of Civil Judge, Lahore, which was returned on 31.05.2007 being *coram non judice*. Thereafter, the respondent filed an application before the Insurance Tribunal, Punjab. After framing of issues and recording of the evidence, the application was dismissed *vide* judgment dated 07.05.2015.

5. Being aggrieved with the above decision, the respondent approached the High Court by filing an insurance appeal, which was allowed through the impugned judgment dated 15.10.2020; hence this appeal.

6. Learned counsel for the appellant contends that the impugned judgment is suffering from misreading and non-reading of evidence on the record; the High Court has not taken into consideration the provisions of Articles 117, 118, 119 and 122 of the Qanun-e-Shahadat Order, 1984; the impugned judgment has been passed against the settled principles of Insurance Law; the burden of proof to establish the cause of death was on the respondent under the Insurance Ordinance, 2000 which she failed to do so; that the impugned judgment is based on surmises and conjectures, thus not sustainable in the eyes of law.

7. Conversely, learned counsel representing the respondent has faithfully defended the impugned judgment.

8. We have heard the learned counsel for the parties at a considerable length and scanned the entire material available on the record with their able assistance. It transpires from the record that the husband of the respondent while purchasing the insurance policy from the appellant on 10.07.2001 had appointed the respondent as a nominee. However, the insured, namely, Abdul Rasheed, unfortunately met with a road accident and died on 24.01.2003. The report of said incident was lodged *vide* rappat No.43 got registered by Ghazanfar Ali, a stranger. The incident was also reported in different newspapers. The said information was received by deceased's sons Ghulam Ali and Ghulam Bari who reached at the spot; recorded their statements before the police, however, they opted not to conduct post-mortem examination of their father. After completion of the necessary formalities by the police, the dead body of the deceased was handed over to their sons who imparted such information to the appellant on 18.02.2003.

9. It reflects from the record that the appellant has never challenged the validity of death certificate; entry in the death register of concerned union council and the report lodged at police station Sherakot, Lahore which are the official documents and presumption of truth is attached with them and the same should be taken into consideration; reference is made to the case reported as Khurshid Ali and 6 others versus Shah Nazar (PLD 1992 SC 822).

10. The High Court has elaborately discussed every aspect of the matter either legal or factual and rightly held the respondent entitled for the insurance claim/policy. In circumstances where a person met with accident/unnatural death, his legal heirs ordinarily avoid for conducting post-mortem examination. However, if the appellant/insurer deem it to be necessary, it should have been done by itself in order to protect its rights. Section 118 of the Insurance Ordinance, 2000 stipulates *"it shall be an implied term of every contract of insurance that where payment on a policy issued by an insurer becomes due and the person entitled thereto has complied with all the requirements, including the filing of complete papers, for claiming the payment, the insurer shall, if he fails to make payment within a period of ninety days from the date on which the payment becomes due or the date on which claimant complies with the requirements, whichever is later, pay as liquidated damages a sum calculated in the manner as specified in sub-section(2) on the amount so payable unless he proves that such failure was due to circumstances beyond his control"*.

11. The record further reflects that the insurance claim was lodged by the respondent with the appellant by complying with all procedural requirements, however, the appellant has badly failed to make due payment as prescribed under the law. We are not convinced that the appellant has been able to make out a case for interference. The impugned judgment is based on sound and cogent reasoning. Learned counsel for the appellant has failed to point any

illegality or infirmity, misreading and non-reading of evidence on the record which could make a basis to take a contra view other than the impugned judgment passed by the High Court.

10. Consequently, the appeal being devoid of merit is dismissed. Above are the reasons of our short order of even date which reads as follows:-

"We have heard the learned counsel for the parties. For detailed reasons to be recorded later, this appeal is dismissed."

Islamabad, the

13th December, 2023.

Not Approved for reporting

Ghulam Reza/*