

**(2024) 02 KL CK 0207**

**High Court Of Kerala**

**Case No:** Writ Petition (C) No. 2080 Of 2024

Azad Umaima

APPELLANT

Vs

United India Insurance Company

RESPONDENT

**Date of Decision:** Feb. 23, 2024

**Hon'ble Judges:** Devan Ramachandran, J

**Bench:** Single Bench

**Advocate:** G.Krishnakumar, P.K.Manoj Kumar, S.Manu, P.S.Appu

**Final Decision:** Disposed Of

### **Judgement**

Devan Ramachandran, J

1. The petitioners seek that the respondent - Insurance Company, be directed to issue the second among them an Overseas Travel Insurance Policy, so as to enable them to travel and join their daughter in the United States of America. They say that, even though the Policy was granted in favour of the first among them, it has been denied to the second, citing untenable reasons and therefore, that they approached the Insurance Ombudsman with Ext.P9 complaint, leading to Ext.P10 being issued by the said Authority, merely affirming the ground of rejection of their claim by the Insurance Company, namely, that the 2nd respondent suffers from adverse medical conditions.

2. The petitioners assert that the afore stand of the Insurance Company, as also Ext.P10, are untenable and factually incorrect because, Ext.P2 Medical Certificate - which was accepted by the Insurance Company with respect to the 1st petitioner - clearly establishes that the 2nd petitioner also does not have any adverse medical condition; and therefore, that the rejection of his request is illegal and unlawful. The petitioners, therefore, pray that Ext.P10 be set aside and the 3rd respondent - Insurance Ombudsman be directed to reconsider the matter without any avoidable delay.

3. Sri.G.Krishnakumar - learned counsel for the petitioners, submitted that, since his clients have to travel to the United States within one month, any further delay, in the Insurance Company granting them the Policy, would

be deleterious and irreparable. He, therefore, prayed that, instead of the 3rd respondent being directed to reconsider Ext.P9, the Insurance Company be ordered to reconsider the application of the 2nd petitioner, adverting to Ext.P2 - which, he reiterated, had been accepted by them as regards the 1st petitioner.

4. In response, Sri.P.K.Manoj Kumar - learned Standing Counsel for the Insurance Company, submitted that the law is now well settled that no one has a vested right to claim that his client should grant them a Policy, particularly a Medical Insurance Policy. He argued that the grant or denial of a Policy would depend upon various factors; and that, in this case, latter was done because the 2<sup>nd</sup> petitioner has several medical reports against him. He, however, submitted that, if this Court is so inclined, his client is willing to reconsider the matter as regards the 2<sup>nd</sup> petitioner, adverting to Ext.P2, provided he is also willing to go through any medical assessment, as may be found necessary, for such purpose. He added that he is making this submission only in the peculiar circumstances involved in this case and not in recognition of any right to the petitioners.

5. When I evaluate and consider the afore rival submissions and go through the prayers made in this Writ Petition, I am certain that it would be of no real worth to the petitioners if this Court is to direct the Insurance Ombudsman to reconsider Ext.P9 complaint, particularly when they say that they have to travel to the United States within a month. Certainly, time is against them; and obviously, therefore, it will be better for them, if the 1st respondent is directed to reconsider their application qua the second among them, provided they are willing to abide by the conditions afore stated by Sri.P.K.Manoj Kumar.

6. Pertinently, the learned counsel for the petitioners - Sri.G.Krishnakumar, accepted every condition as afore suggested by the learned Standing Counsel of the Insurance Company, but prayed that the 1<sup>st</sup> respondent be directed to reconsider the matter within a period of one week or even less.

Taking note of the afore scenario, I allow this Writ Petition and direct the competent Authority of the 1st respondent - Insurance Company, to reconsider the application for medical insurance to the second petitioner, specifically adverting to Ext.P2, after affording him an opportunity of being heard and of producing any other relevant documents.

To enable this, I direct the 2<sup>nd</sup> petitioner to appear before the Regional Officer of the Insurance Company at 11 A.M. on 26.02.2024; on which day, if the competent Authority requires the petitioner to be evaluated medically again, necessary arrangement for the same shall also be done.

In any event, a final decision in terms of the directions herein will be communicated to the 2nd petitioner, not later than 05.03.2024.