



W.A.No.1670 of 2024

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2025:KER:72989

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

MONDAY, THE 6<sup>TH</sup> DAY OF OCTOBER 2025 / 14TH ASWINA, 1947

WA NO. 1670 OF 2024

AGAINST THE JUDGMENT DATED 29.08.2024 IN W.P. (C)

NO.38249 OF 2023 OF HIGH COURT OF KERALA

APPELLANT/1ST RESPONDENT:

LIFE INSURANCE CORPORATION OF INDIA,  
REPRESENTED BY THE MANAGER, CLAIMS DEPARTMENT,  
LIC BRANCH OFFICE, MAVELIKARA P.O.,  
ALAPPUZHA DISTRICT-, PIN - 682015

BY ADV SRI.HARISH GOPINATH

RESPONDENTS/PETITIONER AND 2ND RESPONDENT:

- 1 HARIPREETHA T  
AGED 44 YEARS  
MELEDATHU NADUVILE MURI, PANTHALAM P.O.,  
NOORANAADU, ALAPPUZHA DISTRICT, PIN - 690529
- 2 THE OMBUDSMAN  
OFFICE OF THE INSURANCE OMBUDSMAN,  
M.G. ROAD, KOCHI, ERNAKULAM., PIN - 682015

BY ADV SHRI.K.BALACHANDRAN (PN)

THIS WRIT APPEAL WAS FINALLY HEARD ON 16.09.2025, THE  
COURT ON 6.10.2025 PASSED THE FOLLOWING:

**“CR”****JUDGMENT****Muralee Krishna S., J.**

The 1<sup>st</sup> respondent in W.P.(C) No.38249 of 2023 filed this writ appeal under Section 5(i) of the Kerala High Court Act, 1958, challenging the judgment dated 29.08.2024 passed by the learned Single Judge in that writ petition.

2. According to the 1<sup>st</sup> respondent, she had initially taken Ext.P1 Life Insurance Corporation's ('LIC' in short) Cancer cover Policy dated 24.09.2019 for Rs.10,00,000/-. Since the 1<sup>st</sup> respondent was abroad, she could not renew the same during the currency of the policy. Later, after reaching her native place, the 1<sup>st</sup> respondent contacted the LIC of India and obtained a new policy from their office at Mavelikkara on 16.03.2021 by remitting the premium amount and completing all mandatory formalities. After five months, on 25.08.2021, the 1<sup>st</sup> respondent happened to be hospitalised in Life Line Hospital at Adoor in Pathanamthitta District, on account of profuse bleeding. Having found that Haemoglobin (HB) was lower, two units' blood were given and Dilation & Curettage (D&C) was conducted. The 1<sup>st</sup> respondent



was discharged on 28.08.2021. On the basis of the D&C report, she was advised to take expert opinion at Lake Shore Hospital, Ernakulam. Accordingly, she was admitted at Lake Shore Hospital on 09.09.2021 and underwent surgery to remove the uterus and the same was sent for investigation/biopsy. The biopsy result was obtained only on 28.09.2021, confirming that the 1<sup>st</sup> respondent was suffering from the disease Carcinoma Endometriosis Grade II. Since the 1<sup>st</sup> respondent has a valid cancer cover policy, she submitted Ext.P2 claim petition. In reply, the appellant issued Ext.P3 letter dated 22.11.2021 calling for treatment details of the 1<sup>st</sup> respondent. The hospital has issued Ext.P4 certificate showing the details of the treatment undergone by the 1<sup>st</sup> respondent. But the appellant rejected the claim of the 1<sup>st</sup> respondent, stating the reason that the first diagnosis of 'any stage of cancer' was on 25.08.2021, which was during the waiting period of 180 days mentioned in Clause 8(G) of Part C, from the date of policy, i.e., on 16.03.2021. After receiving Ext.P5 rejection order dated 06.01.2023, the 1<sup>st</sup> respondent submitted Ext.P6 complaint dated 17.02.2023 before the Manager, Grievance Redressal Office of the appellant at Kottayam. She further approached the Insurance



Ombudsman by filing Ext.P7 petition dated 07.07.2023. But, by Ext.P9 award dated 29.09.2023, the Insurance Ombudsman rejected the petition, upholding the contention of the appellant. Hence, the 1<sup>st</sup> respondent filed W.P.(C) No.38249 of 2023 under Article 226 of the Constitution of India seeking the following reliefs;

- "1) To call for the originals of Exhibit P5 and Exhibit P9 and quash the same by a writ of certiorari;
- 2) To issue a writ of mandamus or any other writ order or direction commanding the respondents to disburse the monetary benefit due to major stage cancer to the petitioner's valid insurance policy No. 319261424 dated 16.03.2021;
- 3) To declare that petitioner is eligible and entitled to all the monetary benefit of major stage cancer, covered under the insurance policy No. 319261424.dated 16.03.2021;"

3. In the writ petition, the appellant, who is the 1<sup>st</sup> respondent therein, filed a counter affidavit dated 17.01.2024, producing therewith Exts.R1 to R1(g) documents. By producing Ext.R1(b) copy of Ultrasound Scan Report dated 25.08.2021, Ext.R1(c) Histopathology Report dated 31.08.2021 and Ext.R1(d) MRI Report dated 01.09.2021 pertaining to the examination regarding the illness of the 1<sup>st</sup> respondent conducted from the



hospital wherein the 1<sup>st</sup> respondent obtained the treatment initially, the appellant contended in the counter affidavit that the 1<sup>st</sup> respondent was diagnosed with Endometrial Carcinoma, on 25.08.2021 itself. According to the appellant, the first diagnosis of cancer being on the 162<sup>nd</sup> day of the commencement of the policy, the 1<sup>st</sup> respondent is not entitled to the policy coverage. It is also contended by the appellant that from Ext.R1(e) discharge summary issued to the 1<sup>st</sup> respondent from Lake Shore Hospital, it is evident that the mother of the 1<sup>st</sup> respondent also had Carcinoma Breast. The 1<sup>st</sup> respondent suppressed this material fact, which ought to have been disclosed by her as per the terms of the policy.

4. To the counter affidavit filed by the appellant, the 1<sup>st</sup> respondent filed a reply affidavit dated 29.01.2020. The appellant again filed an additional counter affidavit dated 08.04.2024 providing therewith Exts.R1(h) and R1(i) documents.

5. By the impugned judgment, the learned Single Judge found that the confirmation regarding cancer by a specialist was only on 28.09.2021, after receipt of the biopsy report. In Ext.P4 certificate issued by the treating Doctor/Oncologist regarding the



ailment of the 1<sup>st</sup> respondent, it is specifically stated that the date of diagnosis of Carcinoma Endometrium was on 28.09.2021 after histopathological examination. Since the said confirmation was done only after 180 days of the commencement of the policy, the 1<sup>st</sup> respondent is entitled to get the policy coverage. As far as the contention of suppression of material fact is concerned, the learned Single Judge found that there is no evidence regarding the age of the mother of the 1<sup>st</sup> respondent, who was stated as suffering from carcinoma breast in Ext.R1(e) discharge summary. Moreover, apart from the entry in Ext.R1(e) regarding family history, there is no other evidence to accept the same. In the light of those findings, the learned Single Judge allowed the writ petition by quashing Exts.P5 and P9 orders. The appellant was directed to disburse the monetary benefits due to the 1<sup>st</sup> respondent under Ext.R1(h) insurance policy. Being aggrieved, the appellant is now before this Court.

6. Heard the learned counsel for the appellant and the learned counsel for the 1<sup>st</sup> respondent.

7. The learned counsel for the appellant would submit that the 1<sup>st</sup> respondent obtained Ext.R1(h) insurance policy, which



commenced on 16.03.2021. Under Clause 8(G) of Part C of Ext.R1(h), there is a waiting period of 180 days for the policy, and the benefit covered under the policy is not applicable during this period. The policy will automatically stand terminated if any stage of cancer is diagnosed before the expiry of this waiting period of 180 days. The 1<sup>st</sup> respondent was hospitalised in Life Line Hospital, Adoor, on 25.08.2021, and she was diagnosed with Carcinoma Endometriosis Grade II on 25.08.2021. All the lab tests conducted suggest Carcinoma Endometrium. Ext.R1(f) histopathological report dated 28.09.2021, now relied by the 1<sup>st</sup> respondent, is only a confirmation of the earlier findings of Carcinoma Endometrium. Since the illness was detected within the waiting period, the 1<sup>st</sup> respondent is not covered by the conditions of the policy. The learned counsel further submitted that as per Ext.R1 proposal form, the 1<sup>st</sup> respondent has to disclose the family history regarding any of the parents or siblings suffering from or died due to cancer before the age of 60 years. The 1<sup>st</sup> respondent gave answer in Ext.R1 in negative to that question. However, Ext.R1(e) discharge summary would show that the mother of the 1<sup>st</sup> respondent was suffering from carcinoma breast. This amounts to



suppression of a material fact, and for that reason also the 1<sup>st</sup> respondent is not entitled to the policy coverage.

8. On the other hand, the learned counsel for the 1<sup>st</sup> respondent would argue that the illness of the 1<sup>st</sup> respondent was confirmed as Endometrioid Carcinoma, FIGO Grade II by Ext.R1(f) histopathological report dated 28.09.2021. Therefore, the diagnosis of cancer can be taken only on that date, which is after a period of 180 days from the commencement of the policy. Such a diagnosis can be done only after surgery by a pathological examination of the samples. As far as the contention of suppression of material fact is concerned, the learned counsel vehemently argued that such a ground was not taken for rejection of the claim of the 1<sup>st</sup> respondent in Ext.P5 communication rejecting her claim. The learned counsel argued that the diagnosis of cancer as per the terms of the policy, can be made only by an expert opinion, which is possible only after the surgery. For all these grounds, there is no necessity to interfere with the impugned judgment of the learned Single Judge.

9. The 1<sup>st</sup> respondent obtained LIC's Cancer cover policy bearing No.319261424 from the appellant by submitting Ext.R1





proposal form. In order to understand the contentions raised by the parties in their right perspective, it is better to extract some of the relevant clauses of that insurance policy in this judgment. Clause 13 of Part B Definitions of Ext.R1(h) policy says that the date of diagnosis is the date on which the medical practitioner first examines the life assured and certifies the diagnosis of any of the specified Early Stage Cancer and/or Major Stage Cancer under this policy. Clause 25 of the said part defines medical practitioner as a person who holds a valid registration from the Medical Council of any State or Medical Council of India or Council for Indian Medicine or for Homeopathy set up by the Government of India or a State Government and is thereby entitled to practice medicine within its jurisdiction; and is acting within its scope and jurisdiction of license but excluding the practitioner who is insured/policyholder himself or an agent of the insured or insurance agent, business partner(s) or employer/employee of the insured or a member of insured's family. Part C of the policy deals with the Benefits. Clause 1 to 3 of Part C read thus;

**"1. Benefit Options:** The policyholder has to choose one of the following two benefit options at the time of taking the



policy.

Option I Level Sum Insured: Under this option, the Basic sum insured shall remain unchanged throughout the policy term.

Option II Increasing Sum Insured: Under this option, Sum Insured under the policy shall increase by 10% of Basic Sum insured each year for first five years starting from the first policy anniversary or until the diagnosis of first event of any cancer, whichever is earlier. On diagnosis of any specified Cancer as mentioned in Condition 8(A) of Part C, all the claims payable under the policy shall be based on the increased Sum Insured as the policy anniversary coinciding or prior to the diagnosis of the first claim and further increase to this Sum Insured will not be applicable.

The benefits payable under the Policy shall be based on the Applicable Sum Insured, Where, the Applicable Sum Insured shall be equal to-

The Basic Sum Insured for policies taken under Option I; or

Basic Sum Insured during first year and Increased Sum Insured thereafter, as per the provisions detailed in Option II

The option chosen under this policy is mentioned in the Schedule.

**2. Early Stage Cancer Benefit:** Provided the policy is inforce, on first diagnosis, before the stipulated date of maturity, of any one of the Early Stage Cancers as mentioned in Condition 8 (A) I of Part C, and if the same is



admissible then the following benefits are payable subject to Conditions and Restrictions as mentioned in this document

(a) Lump sum benefit: 25% of Applicable Sum Insured shall be payable

(b) Premium Waiver Benefit: Premiums for next three policy years or balance policy term, whichever ever is lower, shall be waived from the policy anniversary coinciding or following the

date of diagnosis.

**3. Major Stage Cancer Benefit:** Provided the policy is inforce, on first diagnosis, before the stipulated date of maturity, of any of the Major Stage Cancers as mentioned in Condition 8 (A) II of Part C, and if the same is admissible then the following benefits are payable subject to Conditions and Restrictions as mentioned In this document:

(a) Lump Sum: 100% of Applicable Sum Insured less any previously paid claims in respect of Early Stage Cancer shall be payable

(b) Income Benefit: In addition to the above lump sum benefit, Income Benefit of 1% of Applicable Sum insured shall be payable on each policy month following the payment of Lump Sum as mentioned in the above Condition 3(a) of Part C, for a fixed period of next ten years irrespective of the survival of the Life Insured and even if this period of 10 years goes beyond the policy term. In case of death of the Life Assured while receiving this income



Benefit, the remaining payouts, if any, will be paid to his/her nominee.

(c) Premium Waiver Benefit. All the future premiums shall be waived from the next policy anniversary and the policy shall be free from all liabilities except to the extent of Income Benefit as specified above."

10. Clause 8 of that Part deals with the List and Definitions of the Cancer covered under the plan. It divides the cancer into Early Stage Cancer and Major Stage Cancer. As per Clause 8 (G), there is a waiting period for availing the benefit of the policy, which says that a waiting period of 180 days will apply from the date of issuance of the policy or date of revival of risk cover whichever is later, to the first diagnosis of "any stage" cancer. "Any Stage" is defined as all stages of Cancer that occur during the waiting period. It is also clarified in that clause that the benefit covered under the policy is not applicable, and the policy shall be terminated if any stage of cancer occurs at any time on or after the date of issuance of the policy but before the expiry of 180 days reckoned from that date or before the expiry of 180 days from the date of revival.

11. The prime issue involved in this case is the date of diagnosis of cancer. As per Taber's Cyclopedic Medical Dictionary,



### Diagnosis means;

"1. The term denoting the disease or syndrome a person has or is believed to have.

2. The use of scientific or clinical methods to establish the cause and nature of a person's illness or injury and the subsequent functional impairment caused by the pathology.

The diagnosis forms the basis of patient care."

12. The 1<sup>st</sup> respondent was admitted in the hospital due to illness for the first time, as per the pleadings in the writ petition is on 25.08.2021. Ext.R1(b) is the Ultrasound Scan Report dated 25.08.2021, wherein the final impression entered as Endometrial Malignancy. Ext.R1(c) is the histopathology Report dated 31.08.2021, wherein the impression is recorded as Fragments of moderately differentiated endometrioid carcinoma [FIGO Grade II]. Ext.R1(d) is the MRI Report dated 01.09.2021 wherein the impression is entered as imaging findings are suggestive of Ca endometrium - Stage 1 a. Subsequently, the 1<sup>st</sup> respondent was admitted in Lake Shore Hospital on 09.09.2021 and discharged on 16.09.2021, and in the meanwhile, she was subjected to a surgery. Samples were collected during surgery, and the pathology report dated 28.09.2021 confirmed Endometrial Carcinoma. This shows that the final opinion arrived at by the



pathology report dated 28.09.2021 is the confirmation of the diagnosis made in Exts.R1(b) to R1(d) documents. This diagnosis, done on 28.09.2021, is the confirmation by an expert, and it is not the first date on which cancer has been diagnosed. In such circumstances, it can only be said that the diagnosis of cancer was within the waiting period of 180 days. Therefore, the 1<sup>st</sup> respondent is not entitled for the policy coverage as rightly contended by the appellant and found by the learned Ombudsman.

13. While coming to the question of suppression of material fact is concerned, we notice that as found by the learned Single Judge, the age of the mother of the 1<sup>st</sup> respondent, while detecting cancer, is not entered in Ext.R1(e) discharge summary. No other document has been produced from the side of the appellant to prove the age of the mother of the 1<sup>st</sup> respondent at that time. The 1<sup>st</sup> respondent in her reply affidavit dated 29.01.2020, specifically pleaded that her mother is aged 74 years and the breast cancer detected was about 30 years ago. In the absence of any material to contradict this pleading, we concur with the finding of the learned Single Judge that there is no suppression of material



fact in the non-disclosure of breast cancer of her mother by the 1<sup>st</sup> respondent in Ext.R1 proposal form.

14. Having considered the pleadings and materials on record and the submissions made at the Bar, we find that the appellant has made out sufficient ground to hold that while allowing the writ petition the learned Single Judge failed to properly appreciate the materials on record pertaining to the waiting period of 180 days from the date of policy, during the period on which the 1<sup>st</sup> respondent was diagnosed as suffering from cancer. Therefore, the writ appeal is liable to be allowed.

In the result, this writ appeal is allowed by setting aside the impugned judgment in W.P.(C) No.38249 of 2023 and the writ petition stands dismissed.

Sd/-

**ANIL K. NARENDHAN, JUDGE**

Sd/-

**MURALEE KRISHNA S., JUDGE**



APPENDIX OF WA 1670/2024

**PETITIONER ANNEXURES**

<b>Annexure A1</b>	<b>TRUE COPY OF THE HISTAPATHOLOGY REPORT OF THE 1ST RESPONDENT FROM LAKESHORE HOSPITAL DATED 10/9/2021</b>
<b>Annexure A2</b>	<b>8. True Copy of the Medical Opinion issued by Dr. Rose Mathew, Metropolis Health Care Limited</b>