

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 1304 of 2026

Sayan Kundu

Vs.

New India Assurance Company Limited and Others

Mr. Subir Sanyal, Sr. Adv.

Mr. Mainak Chandra

Mr. Sanju Agarwal

....For the petitioners.

Mr. Soumalya Ganguly

....For the respondent nos. 1 & 2.

Mr. Rajesh Singh

Mr. Arka Maiti

Mr. Aniruddha Singh

....For the respondent nos. 3 & 4.

Hearing Concluded On : 22.09.2026

Judgment Delivered On : 07.10.2026

Judgment Uploaded On : 07.10.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition challenging the impugned order dated 26th December, 2025, issued by the New India Assurance Company Limited by repudiating the claim lodged by the petitioner under the insurance policy on the ground that the petitioner has obtained the policy by suppressing, misrepresentation and committing fraud.
2. The father of the petitioner, namely, Ratan Kumar Kundu, since deceased during his life time had purchased four Personal Accident Insurance (Individual) policies from the New India Assurance Company Limited being Policy Nos. 11300042230100000325, 11300042230100000326, 11300042230100000329 and 11300042230100000330 and each policies covering sums assured to the tune of Rs. 25,00,000/- each, all starting from 25th September, 2023 to 24th September, 2024 in total covering sum assured of Rs. 1,00,00,000/-.
3. On 30th April, 2024, the petitioner and his father were travelling from Ajmer to Kolkata by train being No. All SRC 18010 Express. The father of the petitioner accidentally fell down from the running train near Tolra railway station and succumbed to death. The incident was reported to the Daltonganj G.R.P., wherein U.D. Case No. 10 of 2024 dated 30th April, 2024, was registered. On completion of investigation of unnatural death case, the Investigating Officer submitted report on 16th June,

2024 by concluding that the death of the father of the petitioner was due to accident fall from running train.

4. On 17th May, 2024, the petitioner has informed about the death of his father to the insurance company and also submitted claims with respect to the insurance policies of the father of the petitioner. On receipt of the information of death of the father and the claim submitted by the petitioner, the insurance company requested the petitioner to submit required documents and accordingly the petitioner has submitted all documents.
5. The father of the petitioner had other insurance policies with other insurance companies and the same have been settled but the New India Assurance Company Limited failed to settle the claim submitted by the petitioner. The petitioner has filed a writ petition before this Court being WPA No. 25942 of 2025. During the pendency of the writ petition, the petitioner has received an information that the claim of the petitioner is closed. On 26th December, 2025, the petitioner has received the impugned claim repudiation letter from the respondent no.1.
6. Mr. Subir Sanyal, Learned Senior Advocate, representing the petitioner submits that the Insurance Company has repudiated the claim of the petitioner on the ground of non-disclosure of previously obtained other insurance policies by the insured person. He submits that as the

respondents have rejected the claim of the petitioner, accordingly, the previous writ petition was withdrawn and filed the present writ petition.

- 7.** Mr. Sanyal submits that the impugned repudiation of insurance claims by the respondent no.1 is illegal, arbitrary and without any authority of law. The sole ground cited for repudiation is alleged non-disclosure of previously obtained insurance policies by the deceased insured is wholly misconceived. He submits that the proposal forms generated and hosted by the respondent insurer through its official online portal did not contain any column or query seeking disclosure of existing or prior personal accident insurance policies.
- 8.** Mr. Sanyal submits that the duty of the disclosure under the insurance law operates only in respect of facts specifically sought for in the proposal form or facts which are demonstrably material to the risk. The respondent insurance company having framed the proposal form itself, cannot retrospectively enlarge the scope of disclosure after acceptance of the proposal.
- 9.** Mr. Sanyal submits that under Regulation 56(1) and 56(2) of the Insurance Regulatory and Development Authority of India (Protection of Policyholders' Interests, Operations and Allied Matters of Insurers) Regulations, 2024 (hereinafter referred to "Regulations, 2024"), death claims are required to be settled within 15 days or 45 days wherein investigation is warranted, from the date of the claim intimation. He submits that in the present case, the respondent no.1 repudiated the

claim of the petitioner after the period of 585 days from the date of receipt of claim and after filing the writ petition before this Court.

10. Mr. Sanyal submits that Regulation 56(7) of the Regulations, 2024, provides that where a claim is not settled within the prescribed time line, the claimant is entitled to interest at the bank rate plus 2%, payable *suo motu* by the insurer from the date of claim intimation till actual payment. He submits that the entitlement of interest is statutory and automatic, and cannot be defeated by a belated repudiation issued after prolonged delay.
11. Mr. Sanyal submits that the repudiation further violates Regulation 56(10) of the Regulations, 2024, which mandates that no claim shall be repudiated without legally tenable evidence and a reasoned decision.
12. Mr. Sanyal has relied upon the judgment in the case ***Manmohan Nanda Vs. United India Assurance Company Limited and Another*** reported in ***(2022) 4 SCC 582*** and submits that inspite of any column being left blank, the Insurance Company accepts the premium and issues a policy, it cannot at a later stage denied the benefit of insurance claim.
13. Mr. Sanyal has relied upon the judgment in the case of ***Santosh Kumar Vs. Assistant Secretary/ Deputy Secretary/ Secretary, Insurance Ombudsman, Lucknow and Others*** reported in ***2025 SCC OnLine All 2647*** and submits that mere not disclosing the previous policy cannot be a ground of suppression of material fact.

- 14.** Mr. Soumalaya Ganguly, Learned Advocate, representing the respondent nos. 1 and 2 submits that the policies were issued on the basis of digital proposal forms submitted by the insured and were governed by the terms, conditions, declarations and warranties forming part of the contract of insurance, duly signed and agreed by the insured. On receipt of information of death of the insured in a Railway accident, the respondents initiated a detailed investigation and appointed an independent investigator in accordance with the standard industry practice, to access the incident and the claim submitted by the petitioner.
- 15.** Mr. Ganguly submits that during investigation, it was revealed that the insured had procured multiple Personal Accident and Life Insurance Policies from various insurers, aggregating to an extraordinary coverage of approximately 25 crores, which as a matter of fact was never disclosed by the insured to the respondents at the time of obtaining the policies, which is a major fault committed by the insured at the time of obtaining insurance policies.
- 16.** Mr. Ganguly submits that the insured had deliberately suppressed material facts regarding existence of insurance coverage at the proposal stage and such non-disclosure is fundamental and material, as it directly affect for taking decision for grant of insurance claim. He submits that it is the duty upon the insured to make full, true and complete disclosure of all material facts within his knowledge at the time of entering into the contract.

17. Mr. Ganguly has relied upon the judgment in the case of ***Reliance Life Insurance Company Limited and Another Vs. Rekhaben Nareshbhai Rathod*** reported in ***(2019) 6 SCC 175*** and submits that the assured must disclose to the insurer all facts material to an insurer's appraisal of the risk which are known or deemed to be known by the assured but neither known or deemed to be known by the insurer. Breach of this duty by the assured entitles, the insurer to avoid the contract of insurance so long as he can show that the non-disclosure induced the making of the contract as to relevant terms.

18. The respondent nos. 1 and 2 have filed supplementary affidavit at the time of hearing the present writ petition on 30th June, 2026 and submits that IRP, Daltonganj Police Station registered a case being Daltonganj Rail P.S. Case No. 29 of 2026 dated 19th May, 2026 under Section 302 of the IPC and during investigation, the Investigating Officer has issued a notice to the General Insurance Council (GIC) on 1st June, 2026, for submission of the details of all policies and accordingly the same was submitted to the investigating agencies.

19. Mr. Rajesh Singh, Learned Advocate, representing the respondent nos. 3 and 4 submits that there is no bar taking any number of insurance policies but the insured has to declare about the details of the previous policies for which in the proposal form, there is a column to disclose about the details of previous policies but the petitioner has not disclosed and shown as "0" (zero).

- 20.** The issue in the present writ petition, if the details of the previous insurance policies are not disclosed to the insurer while purchasing new insurance policies, whether the insurer can repudiate the policy.
- 21.** The legal maxim *uberrima fides* refer to “utmost good faith”. The principle that governs this maxim is that all human acts should be backed by good faith. *Contracture uberrima fides*, the phrase means that all kinds of contracts (commercial transactions) must be free from any kind of concealment, fraud and misrepresentation. That any contract where the material facts are not disclosed on the part of either party to the contract stands null and void. The maxim majorly governs the insurance contracts. A complete and clear declaration of all material facts is vital for validating a contract.
- 22.** In the contract law, the implied covenant of good faith is a general presumption, which states that the parties to the contract are thoroughly aware of all necessary facts with regards to the terms and conditions of contracts, and all material facts have been clearly stated. There exists no ambiguity concerning the contents of the contract, good faith is presumed to be one of the essentials required to constitute a contract, this intention can be observed by the existence of sections like competency to contract and essential conditions of a valid contract. Section 14 of the Contract Act, 1872, clearly rescinds all contracts that came into existence by means other than free consent. Any contract based on concealment of material facts, misrepresentation, fraud,

attainment of consent by coercion are all invalid from the very beginning.

23. There is no dispute that the father of the petitioner has taken four Personal Accident Insurance Policies for an amount of Rs. 25,00,000/- each total amounting to Rs. 1,00,00,000/- on 25th September, 2023. Death of the father of the petitioner on 30th April, 2024, is also not disputed. The ground of repudiation of all four policies by the insurance company is that the insured has not disclosed the details of previous policies. Admittedly, the insured had previous policies before taking the four policies on 25th September, 2023.
24. Upon perusal of copy of the proposal form for Personal Accident Insurance disclosed by the petitioner in the writ petition from page nos. 26 to 41, it is noted that there is a column "Previous Policy Number". The petitioner has filled up the said column stating as "0" (zero).
25. In the case of **Manmohan Nanda (supra)**, the Hon'ble Supreme Court held that:

"55. On a consideration of the aforesaid judgments, the following principles would emerge:

55.1. There is a duty or obligation of disclosure by the insured regarding any material fact at the time of making the proposal. What constitutes a material fact would depend upon the nature of the insurance policy to be taken, the risk to be covered, as well as the queries that are raised in the proposal form.

55.2. *What may be a material fact in a case would also depend upon the health and medical condition of the proposer.*

55.3. *If specific queries are made in a proposal form then it is expected that specific answers are given by the insured who is bound by the duty to disclose all material facts.*

55.4. *If any query or column in a proposal form is left blank then the Insurance Company must ask the insured to fill it up. If in spite of any column being left blank, the Insurance Company accepts the premium and issues a policy, it cannot at a later stage, when a claim is made under the policy, say that there was a suppression or non-disclosure of a material fact, and seek to repudiate the claim.*

55.5. *The Insurance Company has the right to seek details regarding medical condition, if any, of the proposer by getting the proposer examined by one of its empanelled doctors. If, on the consideration of the medical report, the Insurance Company is satisfied about the medical condition of the proposer and that there is no risk of pre-existing illness, and on such satisfaction it has issued the policy, it cannot thereafter, contend that there was a possible pre-existing illness or sickness which has led to the claim being made by the insured and for that reason repudiate the claim.*

55.6. *The insurer must be able to assess the likely risks that may arise from the status of health and existing disease, if any, disclosed by the insured in the proposal form before issuing the insurance policy. Once the policy has been issued after assessing the medical condition of the insured, the insurer cannot repudiate the claim by citing an existing medical condition which was disclosed by the insured in the proposal form, which condition has led to a particular risk in respect of which the claim has been made by the insured.*

55.7. *In other words, a prudent insurer has to gauge the possible risk that the policy would have to cover and accordingly decide to either accept the*

proposal form and issue a policy or decline to do so. Such an exercise is dependent on the queries made in the proposal form and the answer to the said queries given by the proposer.”

26. In the case of ***Reliance Life Insurance Company Limited (supra)***, the

Hon’ble Supreme Court held that:

“26. The expression “material” in the context of an insurance policy can be defined as any contingency or event that may have an impact upon the risk appetite or willingness of the insurer to provide insurance cover. In MacGillivray on Insurance Law for cases it is observed thus:

“The opinion of the particular assured as to the materiality of a fact will not as a rule be considered, because it follows from the accepted test of materiality that the question is whether a prudent insurer would have considered that any particular circumstance was a material fact and not whether the assured believed it so....”

27. *Materiality from the insured's perspective is a relevant factor in determining whether the insurance company should be able to cancel the policy arising out of the fault of the insured. Whether a question concealed is or is it not material is a question of fact. As this Court held in Satwant Kaur:*

“22. ... Any fact which goes to the root of the contract of insurance and has a bearing on the risk involved would be “material”. ”

28. *Materiality of a fact also depends on the surrounding circumstances and the nature of information sought by the insurer. It covers a failure to disclose vital information which the insurer requires in order to determine firstly, whether or not to assume the risk of insurance, and secondly, if it does accept the risk, upon what terms it should do so. The insurer is better equipped to determine the limits of risk-taking as it*

deals with the exercise of assessments on a day-to-day basis. In a contract of insurance, any fact which would influence the mind of a prudent insurer in deciding whether to accept or not accept the risk is a material fact. If the proposer has knowledge of such fact, she or he is obliged to disclose it particularly while answering questions in the proposal form. An inaccurate answer will entitle the insurer to repudiate because there is a presumption that information sought in the proposal form is material for the purpose of entering into a contract of insurance.

29. *Contracts of insurance are governed by the principle of utmost good faith. The duty of mutual fair dealing requires all parties to a contract to be fair and open with each other to create and maintain trust between them. In a contract of insurance, the insured can be expected to have information of which she/he has knowledge. This justifies a duty of good faith, leading to a positive duty of disclosure. The duty of disclosure in insurance contracts was established in a King's Bench decision in *Carter v. Boehm*, where Lord Mansfield held thus :*

“Insurance is a contract upon speculation. The special facts, upon which the contingent chance is to be computed, lie most commonly in the knowledge of the insured only; the underwriter trusts to his representation, and proceeds upon confidence that he does not keep back any circumstance in his knowledge, to mislead the underwriter into a belief that the circumstance does not exist, and to induce him to estimate the risque, as if it did not exist.”

30. *It is standard practice for the insurer to set out in the application a series of specific questions regarding the applicant's health history and other matters relevant to insurability. The object of the proposal form is to gather information about a potential client, allowing the insurer to get all information which is material to the insurer to know in order to assess the risk and fix the premium for each potential client. Proposal forms are a significant part of the disclosure procedure*

and warrant accuracy of statements. Utmost care must be exercised in filling the proposal form. In a proposal form the applicant declares that she/he warrants truth. The contractual duty so imposed is such that any suppression, untruth or inaccuracy in the statement in the proposal form will be considered as a breach of the duty of good faith and will render the policy voidable by the insurer. The system of adequate disclosure helps buyers and sellers of insurance policies to meet at a common point and narrow down the gap of information asymmetries. This allows the parties to serve their interests better and understand the true extent of the contractual agreement.

31. *The finding of a material misrepresentation or concealment in insurance has a significant effect upon both the insured and the insurer in the event of a dispute. The fact it would influence the decision of a prudent insurer in deciding as to whether or not to accept a risk is a material fact. As this Court held in Satwant Kaur “there is a clear presumption that any information sought for in the proposal form is material for the purpose of entering into a contract of insurance”. Each representation or statement may be material to the risk. The insurance company may still offer insurance protection on altered terms.*

32. *In the present case, the insurer had sought information with respect to previous insurance policies obtained by the assured. The duty of full disclosure required that no information of substance or of interest to the insurer be omitted or concealed. Whether or not the insurer would have issued a life insurance cover despite the earlier cover of insurance is a decision which was required to be taken by the insurer after duly considering all relevant facts and circumstances. The disclosure of the earlier cover was material to an assessment of the risk which was being undertaken by the insurer. Prior to undertaking the risk, this information could potentially allow the insurer to question as to why the insured had in such a short span of time obtained two different life insurance policies. Such a fact is sufficient to put the insurer to enquiry.*

33. *The learned counsel appearing on behalf of the insurer submitted that where a warranty has been furnished by the proposer in terms of a declaration in the proposal form, the requirement of the information being material should not be insisted upon and the insurer would be at liberty to avoid its liability irrespective of whether the information which is sought is material or otherwise. For the purposes of the present case, it is sufficient for this Court to hold in the present facts that the information which was sought by the insurer was indeed material to its decision as to whether or not to undertake a risk. The proposer was aware of the fact, while making a declaration, that if any statements were untrue or inaccurate or if any matter material to the proposal was not disclosed, the insurer may cancel the contract and forfeit the premium. MacGillivray on Insurance Law formulates the principle thus:*

“... In more recent cases it has been held that all-important element in such a declaration is the phrase which makes the declaration the “basis of contract”. These words alone show that the proposer is warranting the truth of his statements, so that in the event of a breach of this warranty, the insurer can repudiate the liability on the policy irrespective of issues of materiality.”

34. *We are not impressed with the submission that the proposer was unaware of the contents of the form that he was required to fill up or that in assigning such a response to a third party, he was absolved of the consequence of appending his signatures to the proposal. The proposer duly appended his signature to the proposal form and the grant of the insurance cover was on the basis of the statements contained in the proposal form. Barely two months before the contract of insurance was entered into with the appellant, the insured had obtained another insurance cover for his life in the sum of Rs 11 lakhs. We are of the view that the failure of the insured to disclose the policy of insurance obtained earlier in the proposal form entitled the insurer to repudiate the claim under the policy.”*

27. In the case of ***Manmohan Nanda (supra)***, the Hon'ble Apex Court held that, if any, query or column in a proposal form is left blank then the Insurance Company must ask the insured to fill it up and if inspite of any column being left blank, the Insurance Company accepts the premium and issues a policy, it cannot at the later stage, when a claim is made under the policy, say that there was a suppression or non-disclosure of a material fact, and seek to repudiate the claim.
28. In the case of ***Reliance Life Insurance Company (supra)***, the Hon'ble Supreme Court held that in that case, the insurer had sought information with regard to previous insurance policies obtained by the assured, the duty of full disclosure required that no information of substance or of interest to the insurer be omitted or concealed. Whether or not the insurer would have issued a life insurance cover despite the earlier cover of insurance is a decision which was required to be taken by the insurer after duly considering all relevant facts and circumstances. The disclosure of the earlier cover was material to an assessment of the risk which was being undertaken by the insurer. Prior to undertaking the risk, this information could potentially allow the insurer to question as to why the insured had in such a short span of time obtained two different life insurance policies. Such a fact is sufficient to put the insurer to enquiry.
29. The petitioner has relied upon the judgment in the case of ***Santosh Kumar (supra)*** but in the said case, the insured has left the column blank but in the present case, the column where the details of previous

policy number is to be disclosed, in the said column, the insured has declared as “0”.

- 30.** The Insurance Regulatory and Development Authority of India, by a Notification dated 16th October, 2002, issued the Insurance Regulatory and Development Authority (Protection of Policyholders' Interests) Regulations, 2002.
- 31.** The expression “proposal form” is defined in Regulation 2(d) thus:

*“2. (d) **“Proposal form”** means a form to be filled in by the proposer for insurance, for furnishing all material information required by the insurer in respect of a risk, in order to enable the insurer to decide whether to accept or decline, to undertake the risk, and in the event of acceptance of the risk, to determine the rates, terms and conditions of a cover to be granted.*

*Explanation.—“**Material**” for the purpose of these Regulations shall mean and include all important, essential and relevant information in the context of underwriting the risk to be covered by the insurer.”*

- 32.** Regulation 4 deals with proposals for insurance and is in the following terms:

*“4. **Proposal for insurance.**—(1) Except in cases of a marine insurance cover, where current market practices do not insist on a written proposal form, in all cases, a proposal for grant of a cover, either for life business or for general business, must be evidenced by a written document. It is the duty of an insurer to furnish to the insured free of charge, within 30 days of the acceptance of a proposal, a copy of the proposal form.*

(2) Forms and documents used in the grant of cover may, depending upon the circumstances of each case, be made available

in languages recognised under the Constitution of India.

(3) In filling the form of proposal, the prospect is to be guided by the provisions of Section 45 of the Act. Any proposal form seeking information for grant of life cover may prominently state therein the requirements of Section 45 of the Act.

(4) Where a proposal form is not used, the insurer shall record the information obtained orally or in writing, and confirm it within a period of 15 days thereof with the proposer and incorporate the information in its cover note or policy. The onus of proof shall rest with the insurer in respect of any information not so recorded, where the insurer claims that the proposer suppressed any material information or provided misleading or false information on any matter material to the grant of a cover.”

- 33.** Regulation 2(d) specifically defines the expression “proposal form” as a form which is filled by a proposer for insurance to furnish *all material information* required by the insurer in respect of a risk. The purpose of the disclosure is to enable the insurer to decide whether to accept or decline to undertake a risk. The disclosures are also intended to enable the insurer, in the event that the risk is accepted, to determine the rates, terms and conditions on which a cover is to be granted. The Explanation defines the expression “material” to mean and include “all important essential and relevant information” for underwriting the risk to be covered by the insurer. Regulation 4(3) stipulates that while filling up the proposal, the proposer is to be guided by the provisions of Section 45. Where a proposal form is not used, the insurer under Regulation 4(4) is to record the information, confirming it within a

stipulated period with the proposer and ought to incorporate the information in the cover note or policy. In respect of information which is not so recorded, the onus of proof lies on the insurer who claims that there was a suppression of material information or that the insured provided misleading or false information on any matter that was material to the grant of the cover.

- 34.** The Insurance Regulatory and Development Authority of India (Issuance of E-Insurance Policies) Regulations, 2016, came into force on 1st October, 2016.

Regulation 2(VI) defines “e-proposal” or “electronic proposal” means a proposal form for an insurance policy filed in electronic form by the prospect with his electronic signature; [or be validated by One time Password].

Regulation 3 provides “e-proposal form” which reads as follows:

“3. e-proposal form.

- (i) Every insurer soliciting insurance business through electronic mode shall create an e-proposal form similar to the physical proposal form approved by the Authority. Such form should enable capture of information in electronic form that would enable easy processing and servicing.*
- (ii) The e-Proposal form shall also have a provision to capture the electronic Insurance Account (eIA) number which shall be filled by prospect wherever available.*
- (iii) Every such insurer shall also make available physical version of e-proposal form as mentioned at (i) & (ii) above. Where*

the information is captured in physical form, then the insurer shall make necessary arrangements to convert the information furnished by prospects into electronic version.

- (iv) In case the prospect does not have an eIA number, the insurer shall facilitate the creation of eIA number wherever the electronic insurance policy is proposed to be issued through the Insurance Repository System.*
- (v) When the prospect furnishes the details in e-proposal form, it shall carry his electronic signature [or be validated by One Time Password.]”*

35. Admittedly on 25th September, 2023, father of the petitioner has purchased four Personal Accident Insurance Policies of Rs. 25,00,000/- each through “e-proposal” or “electronic proposal” and got “e-insurance policy” or “electronic insurance policy”.

"e-insurance policy" or "electronic insurance policy" shall mean a policy document which is an evidence of insurance contract issued by an insurer and digitally signed in accordance with the applicable provisions prescribed by law and issued in an electronic form either directly to the policyholder by the insurer or through the platform of registered Insurance repository;

The e-insurance policy obtained by the insured does not contain his signature as the same is validated by One Time Password (OTP). As per “e-proposal form” for every insurer soliciting insurance business through electronic mode shall create an e-proposal form similar to the

physical proposal form approved by the Authority. Such forms should enable capture of information in electronic form that would enable easy processing and servicing.

36. In the present case, the father of the petitioner purchased four insurance policies through e-proposal and obtained e-insurance policies. In the e-proposal forms, there is a column “previous policy numbers”. The insured (father of the petitioner) has filled up the said column by mentioning as “0” (zero) instead of providing details of earlier policies. From the e-insurance policies, it is clear that the insured has not left the column blank, thus the judgment relied by the petitioner in the case of ***Manmohan Nanda (supra)*** and ***Santosh Kumar (supra)*** are distinguishable from the facts and circumstances of the instant case.

37. Considering the above, this Court did not find any illegality in the impugned order dated 26th December, 2025, passed by the Administrative Officer, New India Assurance Company Limited by repudiating the insurance policies on the ground of non-disclosure of material facts.

38. In view of the above, **WPA No. 1304 of 2026** is thus **dismissed**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)