Failure to Disclose an Existing Insurance Policy Valid Ground to Repudiate Claim Under New Policy

written by Simran Tandon | May 9, 2019

Through a bench comprising of Justice Dhananjaya Y. Chandrachud and Justice Hemant Gupta, the Hon'ble Supreme Court recently on 24th April, 2019 in the case of *Reliance Life Insurance Co. Ltd. & Anr v. Rekhaben Nareshbhai Rathod[1]* has held that Failure to Disclose Existing Insurance Policy is considered to be a material fact and the same would be the sufficient ground for repudiation of the claim by the Insurance Company.

Facts of the case

In the present case, claimants before the hon'ble Supreme Court filed the appeal to set aside the impugned judgment and order of the National Consumer Disputes Redressal Commission ("NCDRC") dated 20th February, 2015.

The appellant issued a policy of life insurance to the spouse of the respondent on 22 September, 2009 based on the disclosures contained in the proposal form. The respondent's spouse died on 8 February, 2010. Nearly fifteen months after the date of death on 24 May, 2011 the respondent nominee under the policy issued by the appellant submitted a claim of Rs. 10 lakhs under the terms of the policy.

The claim was even supported by the medical certificates stating that the deceased suffered a sudden chest pain prior to his death. On 7 June, 2011, the appellant sought copies of medical reports along with previous medical records of the deceased. On 14 July, 2011, in response to the appellant's e-mail dated 29 June, 2011, Max New York Life Insurance Co. Ltd. informed the appellant that the spouse of the respondent had been insured with them for a sum of Rs. 11 lakhs and that the claim had been settled. Thus, the appellant i.e., Reliance Life Insurance Co repudiated the claim of the respondent stating that *"in the light of suppression of material fact, omission to answer especially the question relating to the details of the life insurance policies held by the life assured, we are constrained to repudiate the claim under the policy in terms of Section 45 of the Insurance Act, 1938."* The District Forum dismissed the complaint on the ground that there was non-disclosure of the fact that the insured had held a previous policy in the proposal form filled up by the proposer. However, the appeal filed by the insured before the State Consumer Disputes Redressal Commission was allowed and this decision was upheld in revision by the NCDRC. Thus, being aggrieved by the decision of the NCDRC, the Claimants preferred an appeal before the Hon'ble Supreme Court.

Issue involved - Failure to Disclose Existing Insurance Policy, whether a valid ground?

Whether suppression or non-disclosure of pre-existing policies held by the policy holder in the proposal form filled by him amounts to material fact and whether it is a valid ground for repudiating the claim by the Insurance Companies.

Decision of the Hon'ble Supreme Court

While deciding the present appeal filed by the appellants, the Hon'ble Supreme Court observed that the repudiation of the claim by the insurance company was well within the period of two years from the commencement of the insurance cover. Section 45 of the Insurance Act, 1932 curtails the common law rights of the insurer after two years have elapsed since the cover for life insurance was affected. Thus, the insurer's right to repudiate the claim was untrammelled and was not subjected to conditions which would have applied beyond two years. Also with respect to non- disclosure of a material fact on the part of the insured that he held a prior insurance policy, the Hon'ble Supreme Court observed that the fundamental principle of insurance is governed by the of the doctrine of *uberrima fidei* which means that there must be a complete good faith on the part of the insured. This principle has been formulated in *MacGillivray on Insurance Law.*[2]The Court made the reference to earlier judgment that the relationship between an insurer and the insured is recognized as one where mutual obligation of trust and good faith are paramount. The duty of full disclosure required that no information of substance or of interest to the insurer be omitted or concealed.

The Apex Court observed that the proposal forms are a significant part of the disclosure procedure and warrant accuracy of the statement and it also took reference of the Regulation 2(d) & 4(3) of the Insurance Regulatory and Development Authority (Protection of Policyholders' Interests) Regulations 2002.

Regulation 2(d)[3] specifically defines the expression "proposal form" as a form which is filled by the proposer for insurance to furnish all material information required by the insurer in respect of a risk. 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. The purpose of the disclosure is to enable the insurer to decide whether to accept or decline to undertake a risk. Regulation 4(3)[4] stipulates that while filing up the proposal, the proposer is to be guided by the provisions of section 45.

The
Apex Court also observed that the mere submission of the policyholder that he was unaware of the contents of the proposal form and the same was filled up by
the third party such as agent and that the signature of the assured on the proposal form were taken without explaining the details cannot be accepted. The
Court relied on the decision of the division bench of Mysore High Court in *VK Srinivasa Setty versus M/s. Premier Life
and General Insurance Co. Ltd[5].*
Thus,
the appeal filed by the insurance company was allowed and it was held 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.

Conclusion:

This is certainly a prudent judgment passed by the Hon'ble Supreme Court as it is a sigh of relief to the insurance companies who till now were suffering despite the concealment of the pre-existing policies by the policy holder. Thus, we can say that it is the welcome step and the lesson to the policy holders to not cause Failure to Disclose Existing Insurance Policy, conceal and suppress the material information asked in the proposal form or else the consequences are to be faced in the form of repudiation of claim of the insurance policy taken by the policy holder and the utmost care must be exercised in filling up the proposal form as the system of adequate disclosure helps the buyers and sellers of insurance policies to meet at a common point and narrow down the gap of information asymmetries.

Contributed by – Simran Tandon

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[1] Civil Appeal No.
4261 of 2019, Special Leave to Appeal (C) No. 14312 of 2015
[2]
Twelfth Edition, Sweet and Maxwell (2012)
[3]
Insurance Regulatory and Development Authority
(Protection of Policyholders' Interests) Regulations 2002.
[4] Insurance
Regulatory and Development Authority (Protection of Policyholders' Interests) Regulations 2002
[5] AIR 1958 Mys 53

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