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**ABSTRACT**

**Case Commentary - Reliance Life Insurance Co Ltd & Anr vs Rekhaben Nareshbhai Rathod, Civil Appeal No. 4261 of 2019 (SC)**

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**BEST CITATION** - DEEPTHI RODDA, Case Commentary - Reliance Life Insurance Co Ltd & Anr vs Rekhaben Nareshbhai Rathod, Civil Appeal No. 4261 of 2019 (SC), INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 3 (1) OF 2023, PG. 767-771, ISSN - 2583-2344.

This case highlights the principle of utmost good faith which is one of the foundational principles, which governs of any type of insurance. A contract of insurance is one of trust, and principle of utmost good faith by emphasizing on the disclosures helps to develop a trust between the insurers and insured which will ultimately help both the parties in settling the claim when it is made. It highlights how the principle of utmost good faith has evolved over time by highlighting the related cases. The relevant statutory provisions regarding the principle of good faith has also been discussed in this paper by referring to the domestic insurance statutes in India. Different dimensions of principle of utmost good faith have also been discussed in this paper. The duties of insurer and the insured in consonance with principle of utmost good faith have been discussed in this paper. The case is about the non-disclosure of the information regarding previous insurance policy in the proposal form.

**I. Introduction**

Insurance contract is one of the oldest forms of contracts. Insurance contracts have some peculiar features. A contract of insurance is a contract of utmost good faith. Principle of utmost good faith essentially puts a positive responsibility on the parties to insurance contracts to disclose all the material facts pertaining to the insurance to the opposite parties. The insured has a positive duty to not to misrepresent any facts and he also has a duty to disclose all the facts which affect the risk undertaken by the insurer. The insured has a duty to disclose the material facts while making a proposal for an insurance policy. The duty of disclosure lies on the two parties, the insured and insurer. It has always been said that insurance is a contract of good faith.

**II. Facts of the case**

This case was decided by a two judge bench comprising of Justice D.Y. Chandrachud and

Jurisdiction	Supreme Court of India
Quorum	Justice D.Y. Chandrachud and Justice Hemant Gupta
Date of order	24 April, 2019
Appellant	Reliance Life Insurance Co Ltd & Anr
Respondent	Rekhaben Nareshbhai Rathod
Acts and provision involved	<ul style="list-style-type: none"> <li>Section 45 of the Insurance Act 1938 - Policy not to be called in question on the ground of misstatement after two years</li> <li>Section 17 of the Contract Act 1872 - Fraud defined</li> <li>Section 19 of the Contract Act 1872 - Voidability of agreements without free consent</li> <li>Article 142 of the Indian Constitution - Enforcement of decrees and orders of Supreme Court and unless as to discovery, etc.</li> </ul>

Justice Hemant Gupta of the SC. The insurer is the appellant in this case and the spouse of the insured is the respondent in this case. On 10/07/2009, the spouse of the respondent took a life insurance policy from the insurer named Max New York Life Insurance Company for a sum of Rs. 11 lakhs. On 16/09/2009, barely after two months of taking the first insurance the insured gave a proposal for term plan life insurance policy of the Appellant insurance company. The insurance cover of the life insurance policy of the appellant company was of Rs. 10 lakhs. In the proposal form one of the questions which were needed to be answered by the prospective insured person was whether he was at that time insured under any other life insurance policy or was at that time insured under any other critical illness cover or accident benefit cover.

The person answered the question in negative in the proposal form. To another question in the proposal form regarding the details of other insurance covers held by the person, the person answered that the particular question was not applicable to him. The proposal also contained a declaration that any material information if not disclosed then it may lead to the cancellation of the insurance contract and the premiums paid till date will be forfeited.

Based on the proposal on 22/09/2009, the appellant company issued a life insurance policy in the name of the spouse of the respondent. The insured person died on 8/02/2010. On 24/05/2011, the respondent in the instant case submitted a claim of Rs. 10 lakhs as per the terms of the policy. The insured suffered sudden chest pain just prior to his death. On 7/06/2011 the appellant asked for the copies of medical reports related to the medical history and the death of insured to process the claim of the insured. The appellant also wrote an e-mail on 29/06/2011 to the New York insurance company to which the company gave a reply on 14/07/2011. The Max insurance company informed the appellant that the deceased was insured under their life insurance policy for Rs. 11

lakhs and the insurance claim of the same amount has been settled. After having knowledge of this very fact the appellant repudiated the claim of the respondent on 30/08/2011 stating that there was a suppression of material fact by the insured regarding existence of other life insurance policies and hence the claim was a subject of repudiation as per section 45 of the Insurance Act, 1938.

The respondent in this case filed a consumer complaint stating that there was a deficiency of service by the appellant insurance company. The district consumer forum, Bhavnagar decided in favour of the appellant. The SCDRC, Ahmadabad decided the case in favour of the respondent by granting the claim of life insurance. A revision petition was filed by the appellant before the NCDRC, where the NCDRC upheld the decision of SCDRC. NCDRC decided in favour of the respondent stating that, "Omission of the insured person to disclose the previous policy of insurance would not influence the mind of a prudent insurer." Aggrieved by the decision of the NCDRC, the insurer filed an appeal before the SC.

### **III. Issues raised before the court-**

1. Whether the decision of NCDRC was correct as per law.
2. Whether the fact suppressed by the deceased was material for the appellant while deciding the issuance of life insurance policy.
3. Whether the repudiation of claim by the appellant was justified.

### **IV. Arguments of the Appellant-**

The proposer did suppress the fact that he had an existing life insurance policy. The deceased by answering the question in the proposal form in the negative gave an ex facie false information. The policy was commenced on 22/09/2009 and repudiated within two years due to the non-disclosure of the information regarding existence of previous life insurance policy in the name of the deceased. In such cases the insurer is entitled to repudiate the



policy as per section 17 and 19 of the Indian Contract Act.

When the policy is repudiated within two years of the commencement of the policy the insured has to decide whether the information which was sought was material or not. The insurer need not to prove that the information which was suppressed was material as the insurance contract was repudiated within two years of the commencement of the policy following the provisions of section 45 of the Insurance Act, 1938.

The counsel for the appellant further contended that, "Disclosure of a pre-existing life insurance cover of the proposer is necessary to enable the insurer to assess the human life value of the proposer before the issuance of a policy. The consequence of non-disclosure of a pre-existing cover is that the insurer is unable to assess the real risk." When the repudiation of life insurance policy is done within two years of the commencement of the policy the law provides flexibility to the insurer. The counsel further contended that the decision of the NCDRC was against the earlier decisions of the SC.

The counsel referred to the case of **Condogianis v. Guardian Assurance Company Limited**<sup>2250</sup> and stated that, "Even a partial non-disclosure or ambiguous disclosure regarding the previous policies in the proposal form vitiates the policy, which is thus liable to be rescinded."

#### V. Arguments of the Respondent

The counsel for the respondent stated that, "Insurance agent induced the insured to take a policy of life insurance by taking his signature on a blank proposal form together with the premium in cash. The insured was not conversant with English and it was the duty of the insurer to translate the proposal form into Gujarati."

The respondent stated that the non-disclosure by the deceased was immaterial and it cannot form the basis of the repudiation of the claim. The counsel stated that, "A non-disclosure of a previous insurance policy cannot be a valid ground for repudiation of the claim. There is no prohibition in law from a person holding any number of life insurance policies from different insurers."

The counsel further stated that non-disclosure of the existing life insurance policy is of little significance for another insurance company which is going to give a life insurance policy to the person. By highlighting this the counsel stated that, "The alleged omission or commission is not of any material consequence and would have not influenced the mind of the appellant while issuing the policy nor would it affect the rate of premium."

Finally the counsel submitted that the decision of the SCDRC and NCDRC was correct as per the law.

#### VI. Reasoning given by the court

The court referring to section 45 of the Insurance Act stated that, "The cumulative effect of Section 45 is to restrict the right of the insurer to repudiate a policy of life insurance after a period of two years of the date on which the policy was effected. Beyond two years, the burden lies on the insurer to establish the inaccuracy or falsity of a statement on a material matter or the suppression of material facts." The court further relying on principle of utmost good faith stated that, "The fundamental principle is that insurance is governed by the doctrine of uberrima fidei. This postulates that there must be complete good faith on the part of the insured. The relationship between an insurer and the insured is recognized as one where mutual obligations of trust and good faith are paramount."

The court referring to the case of **Mithoolal Nayak v. LIC**<sup>2251</sup>, stated that, this case is different

<sup>2250</sup> Condogianis v. Guardian Assurance Company Limited, AIR 1921 PC 195.

<sup>2251</sup> Mithoolal Nayak v. LIC, 1962 Suppl (2) SCR 531.

from the present case because that case involved repudiation of the claim beyond a period of two years from the date of commencement of the policy. But the instant case involved the question where the repudiation of the policy has taken place within a period of two years from the date of the commencement of the policy.

Further in the case of ***Life Insurance Corporation of India v. Smt. GM Channabasamma***<sup>2252</sup>, The SC has held that, "It is well settled that a contract of insurance is contract uberrima fides and there must be complete good faith on the part of the assured. The assured is thus under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal should be accepted or not. While making a disclosure of the relevant facts, the duty of the insured to state them correctly cannot be diluted."

Further in the case of ***Life Insurance Corporation of India v. Asha Goel***<sup>2253</sup>, the SC has held that, "The contracts of insurance including the contract of life assurance are contracts uberrima fides and every material fact must be disclosed, otherwise, there is good ground for rescission of the contract. For determination of the question whether there has been suppression of any material facts it may be necessary to also examine whether the suppression relates to a fact which is in the exclusive knowledge of the person intending to take the policy."

Further in the case of ***Satwant Kaur Sandhu v. New India Assurance Company Limited***<sup>2254</sup>, the SC has held that, "It is not for the proposer to determine whether the information sought for is material for the purpose of the policy or not. Of course, the obligation to disclose extends only

to facts which are known to the applicant and not to what he ought to have known."

The court referring the case of ***United India Insurance Co Ltd v MKJ Corporation***<sup>2255</sup>, the SC defining "material fact" has held that, "any fact which would influence the judgment of a prudent insurer in fixing the premium or determining whether he would like to accept the risk. Any fact which goes to the root of the contract of insurance and has a bearing on the risk involved would be material fact."

The court also referred to the IRDAI 2002 regulations on protection of policyholder's interests. Referring to the regulations the court stated that, "Regulation 2(d) specifically defines the 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. Regulation 4(3) stipulates that while filling up the proposal, the proposer is to be guided by the provisions of Section 45." These regulations also impose a duty on the person who is aspiring to get an insurance to disclose the material information to the insurance company.

The court highlighted that the materiality of the fact depends upon the surrounding circumstances and the nature of the information. It helps the insurer to determine whether to issue an insurance policy and if it is to be issued then what is the rate of premium.

The court relying on the doctrine of good faith stated that, "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." There is a positive duty of disclosure on both the parties to the insurance.

The court highlighted 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 court also stated

<sup>2252</sup> *Life Insurance Corporation of India v. Smt. GM Channabasamma*, (1991) 1 SCC 357.

<sup>2253</sup> *Life Insurance Corporation of India v. Asha Goel*, (2001) 2 SCC 160.

<sup>2254</sup> *Satwant Kaur Sandhu v. New India Assurance Company Limited*, (2009) 8 SCC 316.

<sup>2255</sup> *United India Insurance Co Ltd v MKJ Corporation*, 1996 (6) SCC 428.

that the object of disclosure is to narrow down the information asymmetries between the insurer and the insured. The court referring to its earlier decisions held that, "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."

The court highlighted that the disclosure regarding the existing life insurance policy was material for the appellant as any prudent insurer will question the fact that why any person has obtained two life insurance policies within such a short span of time. The existence of earlier life insurance policy was a material fact for the appellant because it would have helped the appellant in deciding whether to undertake the risk or not.

The deceased had duly signed on the insurance policy. The non-disclosure regarding the existence of earlier insurance policy was sufficient in itself to repudiate the claim. NCDRC while giving the decision did not follow the earlier similar decisions by itself and the apex court of the country.

Regarding the contention that the person signed the document without understanding the consequences the court held that, "A person who affixes his signature to a proposal which contains a statement which is not true, cannot ordinarily escape from the consequence arising therefrom by pleading that he chose to sign the proposal containing such statement without either reading or understanding it."

#### VII. Decision of the court

The court finally dismissed the consumer complaint. The judgment of the NCDRC was set aside by the SC. The court held that NCDRC's decision was not correct as per law. The court further held that fact not disclosed by the deceased was material for the insurer. The repudiation of the claim by the insurer was justified.

#### VIII. Analysis of the decision of the court

The court in this case has highlighted how the doctrine of utmost good faith lies at the foundation of any insurance contract. The contract of insurance is one of good faith and trust. Non-disclosure of any material fact is a clear breach of that good faith. This judgement also highlights the fact that existence of one life insurance policy is a material fact for the subsequent insurer from whom the person want to obtain a life insurance. What exactly amounts to a material fact depends upon the totality of the circumstances. The person who wants to get insurance should positively disclose the relevant information which are asked for in the proposal to help the insurer to determine the value of the risk which he is undertaking. This case highlights that disclosure is the bed rock of doctrine of utmost good faith.

#### IX. Related Case Laws

- V.K. Srinivasa Setty vs Premier Life And General , AIR 1958 Kant 53, AIR 1958 Mys 5
- Satwant Kaur Sandhu vs New India Assurance Company Ltd, CIVIL APPEAL NO. 2776 OF 2002
- Mithoolal Nayak v LIC, 1962 Suppl (2) SCR 531

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