JACOB PUNNEN & ANR. Vs. UNITED INDIA INSURANCE CO. LTD.
SUPREME COURT OF INDIA
CIVIL APPEAL NO. 6778 OF 2013

THE SUPREME COURT *rejected the insurer's argument that the consumer was under an obligation to inquire about the terms of the policy, and any changes that might have been introduced, in the standard terms. The state of the law as observed was that an insurer was under a duty to disclose any alteration in the terms of the contract of insurance, at the formation stage or as in this case, at the stage of renewal. The insurer cannot be heard to say that the insured was under an obligation to satisfy itself, if a new term had been introduced.*

BRIEF FACTS:

1. *The undisputed facts are that the appellants contracted with the respondent (hereinafter referred to as "the insurer"), and secured a medical insurance policy (hereinafter referred to as "Mediclaim"), for the first time in 1982.*

2. *The policy was annual and was renewed successively, each year by the appellants by paying the appropriate premium - the last renewal policy forming the subject matter of the present appeal.*

3. *The policy renewed by the appellants on 28.03.2007 was in force for a year i.e., till 27.03.2008.*

4. *Before the date of expiry of the Mediclaim (on 27.03.2008), the insurer sent a reminder to the appellants to renew their policy, if they so wished, annually. The reminder also intimated the appellants that the premium was ₹17,705/- and had to be paid by 27.03.2008.*

5. *The appellants paid the requisite amount by cheque (issued on 26.03.2008) and in this regard the receipt was received from the insurer on 30.03.2008. This receipt indicated that the insurance policy period would be operative from 28.03.2008 to 27.03.2009.*

6. *The monetary coverage of the policy was ₹ 8,00,000/- (₹ 4,25,000/- for the first appellant and ₹ 3,75,000/- for the second appellant).*

FCS DEEPAK P. SINGH
(B.Sc. LLB FCS FIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com

7. *The second appellant had to undergo angioplasty in June (09.06.2008 to 12.06.2008) at Chennai.*

8. *The appellants submitted a claim for ₹ 3,82,705.27/- to the insurer, as amounts due under the contract of insurance policy, towards the expenses incurred by them.*

9. *The insurer, however, accepted the claim and paid the partial amount by releasing ₹ 2,00,000/- to them.*

10. *The appellants filed a complaint before the District Consumer Disputes Redressal Forum (hereafter "the District Forum"), Kottayam for a direction that the insurer ought to pay them ₹ 2,07,705/- along with costs and interests on the compensation.*

11. *The insurer's position before the District Forum was that the terms and conditions of Mediclaim policy changed periodically. The policy for the relevant year indicated that in respect of procedures (such as angioplasty), 70% of the policy limit could be claimed subject to an overall limit of ₹ 2,00,000/- for any one surgery or procedure. The insurer also argued that having been issued with the policy document which was accepted by the appellants, the latter could not then complain that they were any amounts over and above the terms agreed upon.*

DISTRICT FORUM DECISION

12. *The District Forum allowed the appellants' complaint holding firstly that an insurance contract evidences a commercial transaction, and is to be construed like any other agreement, on its own terms subject to fulfillment of the conditions of uberrima fides i.e., utmost good faith by the parties and secondly that the insurer was under a duty to intimate to be insured with respect to change in terms before the renewal of the policy. On the basis of these findings, the District Forum directed the insurer to pay the appellants,₹ 1,75,000/- as the balance amount and also awarded ₹ 5,000/- as compensation.*

STATE FORUM

13. *Aggrieved, the insurer approached the State Consumer Redressal Commission which by its order upset the findings of the Consumer Forum, holding that the terms of the policy were known to the appellants who were bound by it.*

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(B.Sc. LLB FCS FIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com

THE NATIONAL CONSUMER FORUM

14. *The NCDRC upheld the insurer's contention that the insurance policy renewed by the appellants on 28.03.2008 was a fresh contract entered into between the parties which reflected changes compared with the previous terms.*

15. *These conditions – the NCDRC held – were known to the appellants or were presumed to be known since they had claimed under that policy and that it was not open to them to claim ignorance of the terms under the fresh policy which had placed percentage and monetary cap on certain types of surgical procedures.*

THE SUPREME COURT OF INDIA

16. *In Biman Krishna Bose v. United India Insurance Co.Ltd.26 this Court inter alia held as follows: "5. A renewal of an insurance policy means repetition of the original policy.*

17. *When renewed, the policy is extended and the renewed policy in identical terms from a different date of its expiration comes into force. In common parlance, by renewal, the old policy is revived and it is sort of a substitution of obligations under the old policy unless such policy provides otherwise. It may be that on renewal, a new contract comes into being, but the said contract is on the same terms and conditions as that of the original policy. Where an insurance company which has exclusive privilege to carry on insurance business has refused to renew the mediclaim policy of an insured on extraneous and irrelevant considerations, any disease which an insured had contacted during the period when the policy was not renewed, such disease cannot be covered under a fresh insurance policy in view of the exclusion clause.*

The exclusion clause *provides that the pre-existing diseases would not be covered under the fresh insurance policy. If we take the view that the mediclaim policy cannot be renewed with retrospective effect, it would give handle to the Insurance Company to refuse the renewal of the policy on extraneous consideration thereby deprive the claim of the insured for treatment of diseases which have appeared during the relevant time and further deprive the insured for all time to come to cover those diseases under an insurance policy by virtue of the exclusion clause. This being the disastrous effect of wrongful refusal of renewal of the insurance policy, the mischief and harm done to the insured must be remedied.*

FCS DEEPAK P. SINGH
(B.Sc. LLB FCS FIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com

We are, therefore, of the view that once it is found that the act of an insurance company was arbitrary in refusing to renew the policy, the policy is required to be renewed with effect from the date when it fell due for its renewal." (Emphasis supplied).

18. *The claim under the Consumer Protection Act must allowed on the ground that there has been a deficiency on the part of the Insurer. The Insurer brought about a change in the policy. This change introduced a cumbersome limitation. It kept the Insured in the dark about the limitation at the time when the renewal notice was issued, and what is more, the premium was accepted. The Insurer had a duty to inform the appellants that a change regarding the limitation on its liability was being introduced.*

19. *The appeal be allowed on the basis that there was unjustifiable non-disclosure by the Insurer about the introduction of clause of limitation and, in this case, it constituted a deficiency in service and resultantly the appellants are entitled to relief.*

CONCLUSION: *generally, Mediclaim or other general insurance policies are renewed on yearly basis. The premium will be same or increased with the consent of the parties and insurance companies generally keep intimating to the insured till last date of renewal of the policy. The insurance policy generally renewed on same terms and conditions as previous policy and if there any change in terms and conditions , the same should be informed to the insured and his/her consent shall be taken. An insurance company without consent of insured cannot arbitrarily alter terms and conditions at the time of renewal. If an insurer alters and not informed to the insured , it will be treated as deficiency in service and penalty may be imposed.*

DISCLAIMER: *the case law presented here is only for sharing information with readers. In case of necessity do consult with prefessionals.*

FCS DEEPAK P. SINGH
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Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com