

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Civil Revision No. S – 20 of 2004

(State Life Insurance Corporation of Pakistan v Ubedullah and another)

Date of hearing: 07-02-2022

Date of judgment: 07-02-2022

Mr. Sajjad Muhammad Zangejo Advocate for the Applicant
Mr. Muhammad Nasir Malik Respondents
Mr. Mehboob Ali Wassan, Assistant Advocate General

JUDGMENT

Muhammad Junaid Ghaffar, J. – Through this Civil Revision, the Applicant has impugned judgment dated 05.12.2003 passed by IVth Additional District Judge, Mirpur Mathelo, in Civil Appeal No.39 of 2003, whereby, while allowing the Appeal and decreeing the Suit, the judgment dated 27.3.2003 passed by the Senior Civil Judge, Mirpur Mathelo, in Civil Suit No.20 of 2001, has been set-aside through which the Suit of Respondents was dismissed.

2. On the last date of hearing both the learned Counsel were directed to satisfy as the very maintainability of the Suit in hand before the Court of Senior Civil Judge, as an ordinary Suit under section 9 CPC, as admittedly the relationship between the parties is governed by an Insurance Policy issued under the Insurance Act, 1938. Today Learned Counsel for the Applicant has placed reliance on the cases reported as Mrs Sanam Irshad Shah v State Life Insurance of Pakistan (2020 CLD 778); EFU Life Insurance Limited v Additional District Judge (2017 CLD 1575); Abdul Qayoom v State Life Insurance Corporation of Pakistan (2011 CLD 1157); East West Insurance Company Limited v Muhammad Shafi & Company (2009 CLD 960). Insofar as the Respondents Counsel is concerned he has contended that the Suit was maintainable, whereas, on merits the judgment impugned is correct in law.

3. The jurisdiction of a Court in respect of a dispute regarding an Insurance Policy issued under the Insurance Act, 1938 has been dealt with and decided by a larger bench of the learned Lahore High Court in the case reported as **Mst. ROBINA BIBI V STATE LIFE INSURANCE (2013 CLD**

477). In that case the issue was that whether the Insurance Tribunal has jurisdiction in such matters wherein the insurance policies were issued prior to promulgation of the Insurance Ordinance 2000 and it has been held that The Insurance Tribunal cannot assume jurisdiction over claims that arise out of insurance policies issued prior to the date of commencement of the Ordinance i.e., 19-8-2000; that under section 170 of the Ordinance, Insurance policies issued prior to the commencement of the Ordinance are to proceed under the repealed Act; that under section 115 of the Ordinance, only claims arising out of insurance policies issued after the commencement of the Ordinance i.e., on or after 19-8-2000 can be entertained by the Insurance Tribunal; that there is no provision under the Ordinance to transfer pending cases under the repealed Act to the Insurance Tribunal, hence, claims arising out of insurance policies prior to the commencement of the Ordinance shall continue under the repealed Act i.e., Insurance Act, 1938 before the court of appropriate jurisdiction.

4. In similar facts while upholding this view the Hon'ble Supreme Court in the case of ***State Life Insurance Corporation of Pakistan v Mst. Sardar Begum (2017 CLD 1080)*** has approved the said view and has been pleased to hold that all claims, whether directly arising from or relatable to a contract of insurance are covered under the provisions of section 46 of the Insurance Act, 1938 and such suits are to be filed in a *District Court of competent jurisdiction* or depending upon the territorial jurisdiction and pecuniary value of the suit, in the *principal seat of Sindh High Court* or the *Islamabad High Court* as the case may be instead of the District Court. *However, no such suit can be entertained in the Civil Court.*

5. In view of the above judgment it is held that the Civil Court as well as the Court of Additional District Judge had no jurisdiction to entertain the Suit of the Respondents; hence, this Revision Application stands allowed, the impugned judgment of the Appellate Court dated 5.12.2003 along with the judgment of the trial court dated 27.3.2003 stands set-aside. The plaint in the Suit of the Respondents shall stand returned for its presentation before an appropriate court in accordance with the above judgments.

Judge