

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.7864 of 2015 (O&M)
Date of decision:26.11.2015**

Shimla Devi and another

... Petitioners

Vs.

Life Insurance Corporation of India and others... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. K.S.Khehar, Advocate, for the petitioners.

Mr. Rajesh Khandelwal, Advocate
for respondent No.3.

AMIT RAWAL J. (Oral)

Notice of motion.

On asking of the Court, Mr. Rajesh Khandelwal, Advocate, accepts notice on behalf of respondent No.3.

Petitioner-plaintiffs are against the impugned order dated 14.10.2015, whereby, the application seeking amendment of the plaint by adding words “and the subsequent policies purchased from time to time as mentioned in the body of the plaint” has been declined on the premise that there is no use of expression “despite exercise of due diligence.”

Mr. K.S.Khehar, learned counsel appearing on behalf of the petitioners submits that in paragraph Nos.3 and 4 of the plaint,

there is already reference of various other policies which are required to be incorporated and such amendment sought is most innocuous as it would not alter or change the cause of action of the suit.

Mr. Rajesh Khandelwal, learned counsel appearing on behalf of respondent No.3 submits that application has been filed when the suit reached the stage of final arguments. Even the arguments were heard in part and the application at this stage was not permissible and the relief sought to be incorporated is hopelessly time barred, much less, change the nature of the suit.

In support of his aforementioned contentions, he relied upon the following various judgments of this Court, as well as, of the Hon'ble Supreme Court, which read thus:-

- i) Vijay Singh vs. Savitri Devi 2009 AIHC 1576;*
- ii) Gian Chand vs. Bimal Kumar 2012(4) Law Herald 2963;*
- iii) Shiv Gopal Sah @ Shiv Gopal Sahu vs. Sita Ram Saraugi and others 2007(2) RCR (Civil) 679;*
- iv) Ashutosh Chaturvedi vs. Prano Devi @ Parani Devi 2008 AIR SC 2171 and*
- v) J. Samuel and others vs. Gattu Mahesh and others 2012(1) RCR (Civil) 903.*
- vi) Mahabir Prasad vs. Ratan Lal 2009(15) SCC 61*

In rebuttal, Mr. Khehar cited the judgment of the Hon'ble Supreme Court in **Abdul Rehman and another vs. Mohd. Ruldu**

and others 2012(4) R.C.R.(Civil) 481, to contend that such type of amendment can be allowed as it would enable the Court to render justice and avoid further litigation.

I have heard learned counsel for the parties and appraised the paper book.

Paragraph Nos.3 and 4 of the plaint are reproduced herein below:-

“3. That Shri Om Parkash Sharma deposited a sum of ₹4,67,980/- with defendant No.2 in Policy No.161389676 dated 22.08.2001 bearing Date of Maturity as 22.08.2006. He had nominated Naresh Kumar Sharma as his nominee in the said policy which was registered at Serial No.002555 dated 31st August, 2001. The maturity value of the said policy was Rs.7,17,000/-.

4. That Shri Om Parkash Sharma re-invested the said sum of ₹7,17,000/- vide Policy No.300611369 dated 21.08.2006 vide receipt No.1315652 dated 21.08.2006.”

From the perusal of the aforementioned paragraphs, it is evident that there is already a reference of various policies. Plaintiffs want to incorporate words “and the subsequent policies purchased from time to time as mentioned in the body of the plaint” in the head note and prayer clause.

I am in agreement with the judgment of the Hon'ble Supreme Court in **Abdul Rehman's case (supra)** which provides that main purpose of the amendment is to minimize the litigation and

the relief sought by way of amendment whether it was barred by law of limitation is to be seen by the trial Court. There is already a reference of various other policies which are required to be incorporated in the head note and prayer clause which, in my view, would not alter or change the cause of action, much less, would not alter the nature of the suit, therefore, ratio decidendi culled out in the judgments cited by Mr. Khandelwal, is not applicable to the facts and circumstances of the present case, for the reason the amendment in those cases was declined on the ground that bonafides of the plaintiffs was under doubt. However, in the instant case, as noticed above, there are pleadings in paragraphs No.3 and 4 of the plaint, therefore, bonafides of the petitioner-plaintiffs cannot be said to be under cloud and doubt.

In view what has been observed above, the impugned order is set aside and the application for amendment is allowed and the petitioner-plaintiffs are allowed to incorporate the aforementioned words in the head note and prayer clause. Respondent-defendants shall be at liberty to file the amended written statement, in case, any need arises. Mr. Khehar, on instructions from his clients fairly submits that they do not want to lead any fresh evidence.

Accordingly, the revision petition is allowed.

(AMIT RAWAL)
JUDGE

November 26, 2015
savita