IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1729-2001 (O&M)
Reserved on :-**12.02.2026**
Date of Pronouncement:-**19.02.2026**
Uploaded on:-20.2.2026

Suresh Jain

… Appellant

Versus

Life Insurance Corporation of India and Others

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Pawan Kumar, Senior Advocate with
Ms. Vidhushi Kumar, Advocate and
Ms. Seems Rani, Advocate
for the appellant.

Mr. Prateek Mahajan, Advocate with
Mr. Kunal Soni, Advocate for
for respondents No.1 to 4.

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VIRINDER AGGARWAL, J.

1. The appellant/plaintiff, being aggrieved by the judgment and decree dated 16.03.2001 passed by the learned Additional District Judge, Sangrur, whereby the well-reasoned judgment and decree dated 13.05.1999 of the learned Civil Judge (Junior Division) were reversed, has preferred the present Regular Second Appeal (for short, “RSA”) invoking the appellate jurisdiction of this Court.

1.1. The appellant seeks restoration of the decree lawfully granted by the learned Trial Court and redress against the miscarriage of justice occasioned by the impugned judgment. It is respectfully submitted that the impugned judgment and decree suffer from patent perversity, material errors of law, and misappreciation of the evidence on record, thereby resulting in grave injustice. The appellant, therefore, prays that the impugned judgment and decree be set aside and the decree passed by the learned Trial Court be restored.

2. The relevant facts and sequence of events giving rise to, and culminating in, the present appeal may be succinctly delineated as under:-

> "*The case set up by the plaintiff is that her husband, Jagdish Kumar Jain, expired on 20.11.1990 at Malerkotla. During his lifetime, he had obtained two life insurance policies after undergoing the requisite medical examination and had been regularly paying the premiums thereunder. It is averred that the plaintiff was the nominee under the said policies and, consequently, upon the death of her husband, she lodged her claim and furnished the requisite policy documents to the defendants as and when demanded. However, the defendants repudiated the claim on the ground that the deceased was not medically fit at the time of obtaining the policies and, therefore, the Corporation was not liable to honour the claim.*"

3. Upon service, the defendants filed a joint written statement, pleading that the deceased, Jagdish Kumar Jain, husband of Shakuntla

Jain, died on 22.11.1990; that the policies were issued from Nabha Branch w.e.f. 28.04.1990 on proposals dated 15.09.1990; and that the first premium was adjusted on 15.10.1990. They denied plaintiff's nomination, asserted valid repudiation, raised jurisdictional and maintainability objections, and alleged suppression of material health facts, including hypertension and renal failure treated at C.M.C., Chandigarh.

4. The plaintiff filed a replication, wherein the averments and objections raised in the written statement were specifically traversed and denied, and the assertions contained in the plaint were reaffirmed.

4.1. Upon a careful and comprehensive consideration of the pleadings, documents, and rival submissions of the parties, the learned trial Court framed the following issues for determination so as to facilitate a proper and effective adjudication of the controversies involved:-

1. *Whether plaintiff is entitled to recover Rs. 86.450/- and Rs.40,000/-? OPP.*
2. *Whether this Court has jurisdiction to try this suit? OPP.*
3. *Whether plaintiff is also known as Shakuntla Devi? OPP.*
4. *Whether suit is not maintainable in the present form and in view of Section 214 of Indian Succession Act? OPD.*
5. *Whether plaintiff has no cause of action?OPD.*
6. *Whether deceased suppressed the material facts regarding the health and knowingly gave false answer to the material questions in the proposal form and knowingly did not disclose the material facts regarding his health and deliberately made mis-statement and fraudulently withheld and suppressed material facts and information from the Corporation regarding his health? OPD.*

7. *Whether the facts and circumstances of the case repudiation of contract is justified? OPD.*

8. *Relief.*

5. Both parties were afforded a full and fair opportunity to adduce evidence in support of their respective claims. Upon conclusion of the trial and after hearing learned counsel for both sides, the learned Trial Court, proceeded to decree the suit.

6. Aggrieved by the judgment and decree, the respondents/appellants filed an appeal before the learned First Appellate Court, which was allowed.

6.1. Disputing the determinations of the learned First Appellate Court, the appellant/plaintiff filed the present appeal. Upon its admission, notices were issued, following which the respondents, through their counsel, appeared and opposed the appeal. The records of the learned Courts below are accessible on DMS for thorough examination and adjudication.

7. I have heard learned counsel for the parties at considerable length and have bestowed anxious and thoughtful consideration upon their rival submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the findings returned by the Courts below.

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi***

(Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellant contended that the findings recorded by the learned First Appellate Court are founded upon surmises and conjectures and suffer from misappreciation of the evidence on record. It was urged that the original record of Chandigarh Medical Centre, Chandigarh, was not produced and only a computerized extract was brought on record. It was further submitted that the identity of the insured as the patient allegedly examined by DW-2 was not conclusively established.

9.1. Counsel further argued that the learned First Appellate Court erred in disregarding the confidential medical report of the Corporation's Doctor, proved as Ex. DW2/A, wherein the insured was certified to be medically fit upon physical and clinical examination. In such circumstances, repudiation of the claim was wholly unjustified. It was also contended that the policy was sought to be avoided beyond a period of two years from its commencement and, in view of Section 45 of the Insurance Act, such repudiation was legally impermissible. Additionally, there is no evidence on record to establish that the insured died on account of the alleged ailments purportedly suppressed. On these premises, it was prayed

that the impugned judgment and decree be set aside and the appeal be allowed.

10. Per contra, learned counsel for the respondent–Corporation submitted that no illegality or infirmity attaches to the findings recorded by the learned First Appellate Court. It was contended that reliance was rightly placed upon the testimony of DW-2 Arvind Sahani, who had examined Jagdish Kumar and deposed that the insured had disclosed that he was suffering from renal failure, severe hypertension, and urinary tract infection, and had been referred to PGI in that regard. It was further submitted that the hospital record was duly proved by way of secondary evidence, as the original had been destroyed, thereby satisfying the legal requirements for its admissibility.

10.1. Counsel further argued that in cases involving suppression of material facts relating to insurance, the statutory bar of two years would not operate. Moreover, the deceased had died within two years of issuance of the policy. It is a settled principle that concealment of material information by the proposer vitiates the contract of insurance, and certification by the Corporation's Medical Officer would not cure such suppression. It was also pointed out that Dr. Dhanwant Rai specifically deposed that ailments of the nature alleged could not be detected without appropriate clinical tests. On these grounds, dismissal of the appeal and affirmation of the judgment and decree passed by the learned First Appellate Court was prayed for.

11. The learned First Appellate Court reversed the judgment and decree of the learned Trial Court upon recording a categorical finding that

Jagdish Kumar had suppressed material facts pertaining to his ailments and that the Corporation was justified in repudiating the claim, the policy having been rendered void on account of such suppression.

11.1. It is an admitted position that the original record of Chandigarh Medical Centre, Chandigarh, was not produced during trial. Dr. Arvind Sahni produced only computerized copies prepared from the original record, deposing that the original hospital record had been destroyed after its data was digitized. His testimony thus establishes that the original record stood destroyed in the ordinary course after computerization. In such circumstances, the preconditions under Section 65 of the Indian Evidence Act stood satisfied, and the secondary evidence adduced by the respondent–Corporation was rightly taken into consideration. It is well settled that no formal leave of the Court is a condition precedent for leading secondary evidence; the party must merely satisfy the foundational requirements of Section 65, which, in the present case, stand duly fulfilled.

11.2. Learned counsel for the appellant further contended that the identity of Jagdish Kumar as the patient in question was not established, as Dr. Arvind Sahni did not personally know him. Reliance was placed upon the judgment of the Hon'ble Supreme Court in ***Life Insurance Corporation of Indian vs. Smt. G.MK. Channabasamma, 1991 CCC 166 (SC)***, wherein it was held that if the identity of the insured as the person treated is not established from the medical evidence and record, a finding of suppression of material facts cannot be sustained. In paragraph 10 of the said judgment, the Hon'ble Apex Court observed as under:–

10. According to the evidence of three other doctors D. W. 5, D. W. 6 and D. W. 10, they had examined and treated a person bearing the name Gurupadayya or Guruadiah or Gurupadappa. But none of them is in a position to say that it was the same person as the deceased husband of the present plaintiff. They are not in a position to indicate anything whereby the identity of the patient can be proved or inferred. There is no mention of the father's name or residence of the patient and their depositions can be of evidentiary value only if the statement of Dr. Kumar D. W. 4 is accepted.

12. In the case relied upon, the medical record was discarded as it could not be conclusively linked to the deceased husband of the plaintiff, inasmuch as the record contained only the name of the patient without reference to his parentage or address. The factual matrix of the present case stands on a different footing. As per the hospital record (Ex. DW1/A), the name of the plaintiff’s husband, along with his parentage, place of residence, and age, is duly recorded. The particulars, including the father’s name, residential address, and age, correspond with those of the deceased Jagdish Kumar. Consequently, there exists sufficient and cogent material on record to establish the identity of the deceased as the person examined by Dr. Arvind Sahni.

13. Learned counsel for the appellant further contended that repudiation of the policy on the ground of concealment was impermissible beyond the period prescribed under Section 45 of the Insurance Act. The said contention is devoid of merit. Section 45 itself carves out an exception to the two-year limitation in cases involving fraud or

suppression of material facts. The relevant provision of Section 45 of the Insurance Act reads as under:–

> *"It says in effect that if the insurer shows that such statement was on a material matter or suppressed facts which it was material to disclose and that it was fraudulently made by the policy-holder and that the policy- holder knew at the time of making it that the statement was false or that it suppressed facts which it was material to disclose, then the insurer can call in question the policy effected as a result of such inaccurate or false statement, in the case before us the policy was issued on March 13, 1945 and It was to come into effect from January 15, 1945. The amount insured was payable after January 15, 1968 or at the death of the insured, if earlier."*

14. A plain reading of Section 45 of the Insurance Act makes it manifest that where suppression pertains to a material fact which the proposer was under a legal obligation to disclose, the policy may be avoided even after the expiry of two years. In the present case, the evidence on record amply establishes that the deceased was suffering from serious ailments, namely renal failure, severe hypertension, and urinary tract infection, which were not disclosed in the proposal form. The matter, therefore, squarely falls within the ambit of the second limb of Section 45, the suppression being in respect of material facts.

14.1. Learned counsel for the appellant further contended that since the Medical Officer of the Corporation had examined the deceased prior to issuance of the policy and certified him medically fit, repudiation of the claim was impermissible. Reliance was placed upon the judgment of the Madhya Pradesh High Court in Life Insurance Corporation of India, Gwalior vs. **Smt. Prakash Kaur, 1997(3) RCR(Civil)72**. The said

judgment is clearly distinguishable on facts, as in that case the Corporation had proved only a minor ailment for which the proposer had been hospitalized for two days. In contrast, the present case involves serious and life-threatening conditions.

14.2. Reliance was also placed upon the decision of the Andhra Pradesh High Court in ***Life Insurance Corporation vs. B. Chandravathamma, AIR 1971 AP 41***, wherein it was held that a proposer is obliged to disclose only those facts within his knowledge. In the instant case, however, the respondent–Corporation has led cogent evidence to establish that the deceased was fully aware of his ailments. Dr. Arvind Sahni deposed that during examination, Jagdish Kumar himself disclosed his medical history, including renal failure, severe hypertension, and urinary tract infection. These facts were, therefore, within the knowledge of the proposer and were deliberately withheld at the time of submitting the proposal.

14.3. As regards the report of the Corporation's Medical Officer certifying the fitness of the deceased, the said doctor, while deposing before the Court, categorically stated that the examination conducted was merely physical in nature and that no clinical tests were undertaken. He further deposed that the ailments in question could have been detected only upon appropriate clinical investigation.

14.4. In similar circumstances, the Division Bench of the Kerala High Court in ***P. Sarojam vs. LIC of India, AIR 1986 Kerala 201,*** held as under:–

"*The mere fact that Medical Officers of LIC had certified that life assured as good is not of much consequence, in the light of the facts disclosed by the evidence that the certificate do not disclose the true state of affairs known to the insured who had submitted Ex.B-7 and Ex.B-8 proposers. The false answers tot he question in the proposal form given by the insured vitiated the contract of Insurance and the defendant-Corporation is entitled to repudiate the policies and declined payment thereunder.*"

15. The facts of the present case stand on parity with those noticed here-in-above. Once it is established that the insured had suppressed material facts and failed to make a true and complete disclosure regarding his health, the very foundation of the contract of insurance stood vitiated. In such circumstances, the Corporation was fully justified in repudiating the claim, and the learned First Appellate Court rightly upheld the same and dismissed the appeal.

15.1. In view of the foregoing discussion, no ground for interference is made out. The appeal, being devoid of merit, is accordingly dismissed.

16. Consequent upon the final adjudication of the main matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of as a necessary corollary. No separate orders are required thereon, the same having been rendered infructuous.

(VIRINDER AGGARWAL)
JUDGE

19.02.2026
Gaurav Sorot

Whether reasoned / speaking? Yes / No
Whether reportable? Yes / No