



206 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-3917-2015 (O&M)

Date of Decision: 06.05.2026

Branch Manager LIC of India and Another

...Petitioners

Versus

Vinod Kumar and Another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Puneet Sharma, Advocate for the petitioners.

Mr. Rajesh Sethi, Advocate,
Mr. Arun Biriwal, Advocate,
Mr. Anshuman Sethi, Advocate and
Ms. Preeti Bansal, Advocate for respondent No.1.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 17.12.2014 passed by learned Permanent Lok Adalat, Fatehabad (for short 'PLA') whereby respondent No.1's claim has been accepted.

2. Santosh, wife of Vinod Kumar (respondent No.1) purchased a policy from petitioner-LIC. She filed proposal form on 11.05.2011 and paid premium on 23.05.2011. She passed away on 02.06.2012. First premium was Rs.18,637/-. There was agreement to pay half-yearly premium. The insured defaulted even making payment in second premium. Second premium of Rs.19,134/- was paid on 02.03.2012 along with late charges. The insured passed away before making third premium. The petitioner is of the opinion that insured passed away beyond the grace period allowed to pay premium. As per petitioner, policy

commenced w.e.f. 27.04.2011, thus, third premium was required to be paid latest by 27.05.2012. As per respondent, policy commenced w.e.f. 23.05.2011, thus, third premium could be paid by 23.06.2012 and death took place on 02.06.2012 means within grace period.

3. Learned counsel representing the petitioners submits that in the policy, it was specifically mentioned that it would commence w.e.f. 24.04.2011. Date of last payment was mentioned as 27.10.2030. Date of proposal was 11.05.2011. The insured defaulted payment of second premium. She made payment with delayed charges. The interest was calculated considering date of commencement of policy as 27.04.2011. The insured paid second premium along with interest/delayed charges which were calculated considering 27.04.2011 as date of commencement of policy. As per Insurance Manual, the policy may commence from retrospective date.

4. *Per contra*, learned counsel for the respondents submits that opening paragraph of the policy bond provides that corporation has received proposal and declaration as well as first premium from the proposer. It indicates that date of payment is the date of commencement of policy. Section 64VB(2) of Insurance Act, 1938 provides that risk may be assumed not earlier than date on which payment is paid in cash or by cheque to the insurer. The terms and conditions of the policy which are contractual in nature cannot be contrary to statutory provision. There is no estoppel against law. Section 64VB clearly provides that risk commences from the date of payment, thus, policy, in the case in hand, commenced from 23.05.2011 i.e. date of payment of premium.

5. Heard the arguments and perused the record.

6. From the perusal of record, it is evident that insured purchased policy from insurer i.e. LIC of India. Date of proposal was 11.05.2011 and premium was actually paid on 23.05.2011. In the policy bond, date of commencement of policy was incorporated as 27.04.2011. Date of last payment was mentioned as 27.10.2030. The insured defaulted in payment of second premium. The second premium was paid on 23.02.2012 along with late charges. The normal premium to be paid was Rs.18,637/- whereas insured paid a sum of Rs.19,134/-. She paid interest of Rs.497/-. Interest was calculated considering 27.04.2011 as date of commencement of policy.

7. As per respondents, there is no estoppel against law. The terms and conditions cannot be relied upon which are contrary to statutory provisions. The contract between the parties was governed by Insurance Act, 1938. Section 64VB clearly provides that risk commences from the date on which premium is paid. Contention of the respondent that there is no estoppel against law deserves to be countenanced. It is settled proposition of law that there cannot be estoppel against law and terms and conditions of contract which are contrary to statutory provisions, deserve to be ignored. In the case in hand, matter deserves to be examined whether Section 64VB provides that policy cannot commence from retrospective date. Section 64VB reads as:

“64-VB. No risk to be assumed unless premium is received in advance. - (1) No insurer shall assume any risk in India in respect of any insurance business on which premium is not ordinarily payable outside India unless and until the premium payable is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed or unless and until

deposit of such amount as may be prescribed, is made in advance in the prescribed manner.

(2) For the purposes of this section, in the case of risks for which premium can be ascertained in advance, the risk may be assumed not earlier than the date on which the premium has been paid in cash or by cheque to the insurer.

Explanation.- *Where the premium is tendered by postal money order or cheque sent by post, the risk may be assumed on the date on which the money order is booked or the cheque is posted, as the case may be.*

(3) Any refund of premium which may become due to an insured on account of the cancellation of a policy or alteration in its terms and conditions or otherwise shall be paid by the insurer directly to the insured by a crossed or order cheque or by postal money order and a proper receipt shall be obtained by the insurer from the insured, and such refund shall in no case be credited to the account of the agent.

(4) Where an insurance agent collects a premium on a policy of insurance on behalf of an insurer, he shall deposit with, or despatch by post to, the insurer, the premium so collected in full without deduction of his commission within twenty-four hours of the collection excluding bank and postal holidays.

(5) The Central Government may, by rules, relax the requirements of sub-section (1) in respect of particular categories of insurance policies.

(6) The Authority may, from time to time, specify, by the regulations made by it, the manner of receipt of premium by the insurer.”

8. The respondent is relying upon sub-section (2) to vindicate his stand. From the perusal of sub-section (2), it is evident that it cautions insurer not to assume risk prior to receipt of premium. It does not absolutely bar insurer to cover risk prior to payment of premium. Both

sides during the course of hearing cited judgments of Hon'ble Supreme Court in '*Reliance Life Insurance Company Limited and Another Versus Jaya Wadhvani*', (2024) 2 SCC 427, '*Life Insurance Corporation of India Versus Mani Ram*', (2005) 6 SCC 274 and '*Life Insurance Corporation of India and Another Versus Dharam Vir Anand*', (1998) 7 SCC 348. In all these judgments, commencement of policy prior to payment of premium is noticed and nowhere it has been held that policy cannot commence prior to payment of premium. In case policy is issued prior to encashment of cheque and it is dishonoured, situation may be different, however, if policy is issued after receipt of premium but commences from previous/ante date as proposed in the proposal form, the insured cannot be heard to claim that policy must commence from the date of payment of premium. Thus, the aforesaid Section does not advance cause of the respondent.

9. The petitioner has cited Clause 8 of Insurance Manual which reads as:

"8. The commencement of the risk and dating back of the policy is permissible. The relevant portion in the manual reads as under :-

The Commencement of Risk and Dating Back of Policies.- *The Risk under the Corporation's Policies commences on the date of receipt of the first premium in full or the date of acceptance whichever is the later, but if the acceptance of a Proposal is conditional upon the proposer's compliance with any requirements, then the risk under the policy will commence on the date on which all the requirements are satisfactorily complied with or on the date of receipt of the first premium in full, whichever is the later.*

Normally policies (except those effected under Tables 44,

97 and 115) can be dated back, if desired, within the financial year for a period not exceeding three months without any extra charge. However, for Tables 50 and 80 dating back a previous financial year is also allowed in order to enable the life assured to attain majority on the date of deferment. Further, if the policy is under Children's Deferred Endowment Assurance, New Children Deferred Assurance Plan, Children Anticipated and Deferred Annuity Plans, such policies can be dated back within the financial year for a period of one month only without any extra charge. The policies issued under Deferred Annuity Plans such as Tables 45, 96 and 116 (excluding single premium policies) can also be dated back within the financial year for a period of 15 days only without any extra charge. Policies may be dated back for longer periods, but again within the financial year, provided interest is paid @ 9% p.a. for the period in excess of three months (one month in the case of policies effected under Plans 41, 50, 80, 81, 90) from the date of commencement of policies to the date of payment in the case of first premium subject to minimum interest of Rs.2/- and similarly for a period in excess of three months or one month, as the case may be, from the due date of premium to the date of payment in the case of subsequent premiums, if any, paid late subject to a minimum interest of Rs.2/ in respect of each such premium. In case of policies under Plan 45, 96 and 116 (excluding single premium), interest @ 12% p.a. on each back dated premium subject to minimum of Rs.5/- for the period of excess of 15 days is charged. In case of policies issued under Plans Jeevan Shree (Table 112) and children's Money Back (Table 113), interest @ 12% p.a. for dating back in excess of one month will be charged.

No interest will be charged if the policies are dated back in the lien months of April, May, July, and August. However, this concession will not apply to children Assurance and Annuity Plans like Tables 41, 50, 80, 81, 92; Deferred

Annuity Plans 45, 96, 116 and Plans 101, 112, 113. Under Jeevan Kishor (Table 102) dating back can be allowed only for a period of three months and hence no interest is to be charged thereunder. In the case of policies effected by paying Single Premium and Consideration Amounts (in the case of Annuities), excluding Jeevan dhara Policies (Table 96), the proposer will be required to pay interest @ 9% p.a. subject to a minimum of Rs.2/ on the Single Premium or the consideration amount from the date of commencement of risk to the date of payment.

Dating back of policies under Plans 44, 97 and 115 is not allowed.”

10. From the perusal of above quoted Clause, it is evident that as per Insurance Manual, the insurance companies may commence policy from retrospective date. It is well known fact that considering age factor and change in amount of premium, the insured ask for retrospective commencement of the policy. The quantum of premium is directly linked with age factor as well as date of commencement of policy. As per aforesaid Clause of the Insurance Manual, policy may commence from retrospective date. The insured in the application form specifically pointed out that policy be commenced from 27.04.2011. In the policy bond, it was specifically mentioned that date of commencement of policy is 27.04.2011 though premium was paid subsequently. The moment premium was paid, the policy commenced from retrospective date. The insured defaulted payment of second premium. The insurer charged interest considering 27.04.2011 as date of commencement of policy. The insured paid premium along with interest considering 27.04.2011 as date of commencement of policy. These facts collectively vindicate stand of the petitioner and demolish respondent's claim.

11. In the wake of above discussion and findings, this Court is of the considered opinion that date of commencement of policy was 27.04.2011 and learned PLA has wrongly considered date of commencement of policy as 23.05.2011. The impugned order deserves to be set aside and accordingly set aside.

12. *Allowed.*

13. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

06.05.2026

Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No