



2025:DHC:1750



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RSA 167/2019

BALE RAM KASHYAP

.....Appellant

Through: Mr. Jogy Scaria, Mrs. Beena Victor,
Mr. Keerthipriyan E., Ms. M. Priya,
Mr. Ashwani Kumar Soni, Advs.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Sarvan Kumar, Adv. for R-
1/UOI.
Mr. Pankaj Seth, Adv. for R-2 and 3.

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Date of Decision: 12.03.2025.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present Regular Second Appeal has been filed under Section 100 CPC seeking the setting aside of the impugned judgment/order dated 10.05.2019, passed by the learned ADJ, West, Tis Hazari Courts, Delhi in RCA No. 32/2017, whereby the appeal filed against the judgment and decree dated 24.01.2017, passed by the learned SCJ-Cum-RC (Central), Tis Hazari Courts, Delhi in Suit No. 25/03, was dismissed. The learned First Appellate Court partly allowed the appeal and, in addition to the arrears of salary already decreed in favor of the



appellant by the learned Trial Court, held the appellant entitled to the recovery of a sum of Rs. 1651/-. The appellant was also awarded pendent lite and future interest at the rate of 10% p.a. on the said sum. Aggrieved by these findings of the learned Trial Court, the appellant has filed the present Regular Second Appeal.

2. In the appeal the appellant has raised the following question of law:

“A) Whether the courts below were justified in rejecting the rightful claim of the appellant when there were sufficient evidences, document and statement of the witnesses supporting the claim of the appellant?”

3. Learned counsel for the appellant, during the course of his arguments, confined his challenge to rejection of following claims: (i) the prayer for reimbursement of the premium amount of Rs. 1,651/- paid towards the mediclaim insurance covering family members, and (ii) the amount of Rs. 3,500/- claimed as "taxified." The appellant challenged the findings of the learned Trial Court and the learned First Appellate Court on these two grounds.
4. Learned counsel for the appellant submitted that, regarding group mediclaim policy issued by United India Insurance Company Limited in it's communication dated 19.04.1999, it was *inter alia* stated that employees willing to reduce the sum insured to their entitled limits could do so by submitting a fresh declaration before 30.04.1999. He further referred to the cross-examination of Ex.D2W-1 Sh. S.N. Thakur, who stated that the appellant had opted for coverage of Rs. 2,00,000/- for himself and his family in 1997-98 instead of the eligible



amount, and the required premium was paid. The witness also deposed that in 1998-99, the appellant reduced the opted amount from Rs. 2,00,000/- to Rs. 1,50,000/-, for which the required premium was also paid. It further emerged in the testimony that in March 2000, the auditors rejected the discrepancy, stating that the plaintiff could not reduce the opted amount, and accordingly, a balance premium of Rs. 1,322/- was recovered from him. Learned counsel also referred to Group Medi-claim Policy Ex. PW-2/2 Rule (e), which provides that the option to lower the sum insured is not available for any insured amount lower than the eligible sum insured.

5. Learned counsel submits that, in the present case, based on the appellant's basic salary, the minimum sum insured was Rs. 70,000/-. The appellant's second contention is based on Rule 35 of Honouring of Employees on Retirement. Rule 35 (Annexure-A7) Ex.PW-2/3 provides that if a pool car or the Officer-in-Charge's car is unavailable, a hired conveyance may be arranged at a reasonable cost to drop the employee at their residence in the station of work. Learned counsel submits that in the present case, respondent No. 2 failed to provide such a facility to the appellant and his family on the date of his retirement.
6. Although the issues raised by the appellant are trivial in nature, they reflect the insensitivity of United India Insurance Company Limited.
7. Section 100 CPC provides that a second appeal can only be entertained if there is a substantial question of law. It has been categorically held that the High Court cannot interfere with the order of the learned First Appellate Court unless a substantial question of law exists. It is well-



settled that the existence of a substantial question of law is a *sine qua non* for the exercise of jurisdiction under Section 100 CPC. Erroneous findings of fact, based on an appreciation of evidence, do not confer jurisdiction on the High Court to interfere with the concurrent findings of the learned Trial Court and the learned First Appellate Court.

8. It is pertinent to note that, to qualify as a substantial question of law, the issue must be debatable, unsettled by existing law or precedent, and its resolution must have a material impact on the rights of the parties. The Court in a second appeal cannot interfere with mixed questions of law and fact.
9. In *Hero Vinoth v. Seshammal* (2006) 5 SCC 545, the Apex Court, *inter alia*, held that a substantial question of law must be debatable, unresolved by precedent, materially impact the case's outcome, arise from established facts, and be necessary for a just decision, with new points raised only if they are fundamental to the matter. Furthermore, it was held that the principles under Section 100 CPC state that a substantial question of law may arise from the misconstruction of a document, misapplication of legal principles, or a debatable legal issue materially affecting the case, and may also arise if a lower court's decision contradicts established legal principles or precedents.
10. The Court considers that in the present case the appellant has failed to raise any substantial question of law. The contentions being raised by the appellant are basically on the facts. The Ld. First Appellate Court is the final arbiter of facts. The Court do not find any reason to interfere in the same.



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11. In view of the above, this Court does not find any substantial question of law. Hence, the present appeal stands dismissed.

DINESH KUMAR SHARMA, J

MARCH 12, 2025/AR/NA..