
(1912) 06 BOM CK 0017
In the Bombay High Court
Case No : First Appeal No. 217 of 1910

Hirabhai Narotamdas

APPELLANT

Vs

The Manufacturers Life Insurance Company

RESPONDENT

Date of Decision : 12-06-1912

Acts Referred:

Contract Act, 1872 — Section 28

Citation : (1912) 14 BOMLR 741

Hon'ble Judges : Narayan G. Chandavarkar, J;Batchelor, J

Bench : Division Bench

Judgement

Narayan Chandavarkar, Kt., Acting C.J.

1. The clause, which is to be construed in this case and on the strength of which the lower Court has dismissed the suit, is as follows : " No suit shall be brought against the Company in connection with the said policy later than one year after the time when the cause of action accrues." This clause is to be found in the declaration made by the applicant for an insurance policy which is Ext. n. That is the contract between the parties.

2. It is argued for the appellant that the deceased who had insured his life could not contract himself out of his right to resort to a Court of justice and agree to lessen the period prescribed for a suit by the Legislature in the Limitation Act. In support of that argument the learned Counsel for the appellant has invoked the aid of Section 28 of the Indian Contract Act.

3. If the words in the clause be interpreted literally there might be considerable force in the argument addressed to us. But the terms used in an insurance contract must be interpreted with reference to the object and exigencies of insurance. It is true that where there is a right the party cannot enter into a contract and agree that he shall resort to a Court of justice within a period other than that provided by the Limitation Act.

4. But here the parties agreed in substance that if no suit were brought within a

year then neither party should be regarded as having any rights as against the other; in other words, the condition contained in the clause meant that there was to be a waiver of the rights of the respective parties if no suit was brought within a year. That was the intention of the parties and the conclusion, therefore, arrived at by the lower Court must be accepted as correct. We, therefore, confirm the decree with costs.