**(2011) 06 JH CK 0060**

**In the Jharkhand High Court**

**Case No :** L.P.A. No. 450 of 2010

Niraj Maheshwari APPELLANT

Vs

United India Insurance Company Ltd. and Others RESPONDENT

**Date of Decision :** 07-06-2011

**Acts Referred:**

**Citation :** (2012) ACJ 518 : AIR 2011 Jhar 132

**Hon'ble Judges :** Prakash Tatia, Acting C.J.;Jaya Roy, J

**Bench :** Division Bench

**Advocate :** Anil Kumar, for the Appellant; D.C. Ghose, for the Respondent

## Judgement

Jaya Roy, J.—Heard learned Counsel for the parties.

2. The Appellant is aggrieved against the order dated 18.05.2010, by which, theAppellant''s writ petition was dismissed by the learned Single Judge after observing that admittedly mediclaim policy of thePetitioner was expired on 18th July, 2004 and after about six months thePetitioner sent a blank cheque along with a letter requesting for renewal of his mediclaim policy.

3. Learned Counsel for theAppellant submitted that in view of the judgment passed by the Hon''ble Supreme Court delivered in the case of Biman Krishna Bose v. United Insurance Company Ltd. reported in J.T. (2001) 6 125, the Insurance Company had a right to renew the, policy retrospectively, therefore, the Insurance Company should have renewed the policy. Learned Counsel for UseAppellant also submitted that vide annexure- 7 the Insurance Company rejected thePetitioner''s claim because of his ailment which they have found as old one and, therefore, on this ground the Insurance Company could not have rejected the prayer for renewal of the policy.

4. We considered the submissions of learned Counsel for theAppellant and perused annexure 7 as well as considered the judgment rendered in the case of Biman Krishna Bose. (Supra). it is not in dispute thatPetitioner''s mediclaim policy was expired on 18th July, 2004 and according to thePetitioner he was

 

misled by the agent of the Insurance Company. Therefore, he could not get the policy renewed in time and for that he made a complaint against the agent to the company and then he sent a blank cheque and a letter to the company for renewal of the insurance policy. In view of the above facts, it is clear that thePetitioner has sought renewal of the policy on the basis of an allegation against the agent, who was not a party in the writ petition or before us.

5. Be that as it may, the policy can be renewed if the renewal is sought in time and admittedly in the present case, the policy ought to have been renewed within a period of seven days from the date of expiry of the policy and that has not been done and application for renewal of policy has been given after six months from the date of expiry of the mediclaim policy. In the case of Biman Krishna Boise (Supra), the Hon''ble Supreme Court has considered the issue which has no relevance to the facts of the present case. In the said case, it has been held that the applicant applied within time for renewal of the Insurance Policy and rejection of the prayer for renewal by the Insurance Company was quashed by the Hon''ble High Court and, therefore, the policy stand renewed. So far as other conditions which was sought to be invoked was that in Clause of exclusion which provided for preexisting decease cannot not be covered under the fresh policy and in that situation, the matter was considered by the Hon''ble Supreme Court and the Hon''ble Supreme Court considered the consequence of such Clause in the matter of renewal of policy and held that this will have disastrous effect of wrongful refusal of renewal of the insurance policy, the mischief and harm cannot be remedied The Hon''ble Supreme Court considered the difference between the renewal of the policy and a fresh policy for the same risk coverage.

6. Here in this case, there is no dispute that thePetitioner applied for renewal of the policy after expiry of the period of limitation and it is not a case that he applied within a period of limitation so as to cover his pre-existing decease. It is a case when the contract came to an end by the lapse of time and renewal was not sought well in time, therefore, thePetitioner is not entitled to any relief and the case of Biman Krishna Base (Supra) has no relevance with this case.

7. In view of the above, there is no merit in this appeal, which''s accordingly dismissed.

 