

P L D 1983 Supreme Court 280

Present: Shafiur Rahman, Zafar Hussain Mirza and
M. Burhanuddin, JJ
STATE LIFE INSURANCE CORPORATION OF

PAKISTAN-Appellant versus

MESSRS PAKISTAN TOBACCO COMPANY LTD.-
Respondent

Civil Appeals Nos. 63 and 64 of 1981, decided on 16th March, 1983.

(On appeal against the judgment of the Sind High Court dated 15-12-1980 in Writ Petitions 1307 and 350 of 1981).

(a) Constitution of Pakistan (1973)-

-- Art. 185(3) read with Life Insurance (Nationalization) Order (P.O. 10 of 1972), Art. 14 and West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance (VI of 1968), S. O. 10-B-Leave to appeal-Granted to examine (i) whether appellant was under statutory duty under Order to insure employees of respondent company inter alia with regard to their non-occupational, non-accidental, natural disability as envisaged by S. O. 10-B of Ordinance and (ii) whether High Court could justifiably direct appellant to discharge its statutory obligation by making payment of claims preferred to it under S. O. 10-B of Ordinance.

(b) Constitution of Pakistan (1973)--

-- Art. 199 read with West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance (VI of 11968), S. O. 10-B-Compulsory group insurance-Question whether from various documents like brochure, proposal, its acceptance, Insurance Policy, and subsequent correspondence coupled with conduct of party, a contract covering all risks enumerated in S. O. 10-B came into existence-Held, could not be examined or determined in constitutional jurisdiction of High Court-Such controverted questions of fact, adjudication on which possible only after obtaining all types of evidence in power and possession of parties-Held, can be determined only by courts having plenary jurisdiction in matter and that on such ground constitutional petition was incompetent.

Muhammad Idrish v. East Pakistan Timber Merchants Group and another P L D 1968 S C 412; M. Muzaffaruddin Industries Ltd. v. The Chief Settlement & Rehabilitation Commissioner and another 1968 S C M R 1136; Shamshad Ali Khan v. Commissioner Lahore etc. 1969 S C M R 122; The Murree Brewery Co. Ltd. v. Pakistan through the Secretary Government of Pakistan Works Division and 2 others P L D 197?. S C 279 and Al-Mahmood Industries (Pakistan) Ltd. v. Trading Corporation of Pakistan Ltd. and another 1974 S C M R 51 cited but not examined.

Sardar Muhammad Iqbal, Senior Advocate Supreme Court, Muhammad Ghani, Advocate Supreme Court and Salim M. Malik, Advocate-on-Record for Appellant.

Muhammad Sardar Khan, Advocate Supreme Court and S. Inayat Hussain, Advocate-on-Record for Respondent.

Date of hearing: 16th March, 1983.