MASSACHUSETTS SUPREME JUDICIAL COURT

John Hancock Mutual Life Insurance Co. v. Banerji

447 Mass. 875 (2006) · Decided December 13, 2006

SUMMARY

The Massachusetts Supreme Judicial Court held that an insurer could not rely on statements in an application for future earnings protection benefits because the application was not attached to the issued endorsement as required by G. L. c. 175, § 108 (5) (a). The court characterized the FEP benefit as new and additional insurance rather than a reinstatement or mere supplement to the original disability policy. It affirmed the judgment for Banerji, rejected his claims for certain additional damages and attorney's fees, and remanded for calculation of past-due benefits and interest.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Marshall
JURISDICTION	Massachusetts
DECIDED	December 13, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from Superior Court judgment
PRECEDENTIAL VALUE	published
PARTIES	John Hancock Mutual Life Insurance Co. v. Julian Banerji

TOPICS

insurance coverage · insurance · contract interpretation · statutory interpretation · remedies

PRACTICE AREAS

insurance law · contract law

QUESTIONS PRESENTED

1. Whether G.L. c. 175, § 108(5)(a) prohibits an insurer from rescinding a future earnings protection (FEP) benefit based on statements in the insured's FEP application when the insurer failed to attach that application to the FEP endorsement when issued
2. Whether the insured is entitled to lump-sum present value of future FEP payments

3. Whether the insured is entitled to emotional distress damages
4. Whether the insured is entitled to attorney's fees and costs

HOLDINGS

1. An application for future earnings protection (FEP) benefits constitutes an 'application for a policy' under G.L. c. 175, § 108(5)(a), and the insurer may not rely on statements in that application to rescind coverage unless the application was attached to or endorsed on the FEP endorsement when issued.
2. The insured is not entitled to lump-sum present value of all future FEP payments because the FEP policy remains an enforceable contract and the insurer is able to pay according to the contractually agreed-on timetable.
3. The insured is not entitled to damages for emotional distress in tort or contract because the insurer's conduct was not extreme and outrageous, and emotional distress damages are generally not recoverable in contract actions absent physical harm or intentional/reckless extreme conduct.
4. The insured is not entitled to attorney's fees and costs because each party in an insurance coverage dispute is responsible for its own attorney's fees under the traditional rule.

KEY QUOTATIONS

> *"The insured did not apply for reinstatement of an existing (albeit lapsed) policy; instead, he applied for a new, separate, and distinct layer of disability protection, in the form of new benefits not provided under his 1990 policy."* (882-883)

> *"Where there was a new application for new benefits not provided in the original insurance contract and for new consideration, and where that new application contained representations material to Hancock's underwriting decision, the FEP application was an 'application for a policy' as that term is used in G. L. c. 175, § 108 (5) (a)."* (884)

> *"The requirement that an insured's application be attached to the policy primarily protects the insured by giving him the opportunity to 'correct material errors in the application.'"* (885)

FACTUAL BACKGROUND

Julian Banerji applied for and obtained an individual disability insurance policy from John Hancock in 1990. In 1993, he applied for additional Future Earnings Protection (FEP) benefits, submitting a new application stating he had no other disability insurance. Hancock approved the FEP benefit and sent an endorsement without attaching the FEP application to it. After Banerji suffered a stroke and made a claim in 1994, Hancock denied FEP benefits because Banerji actually had employer-provided group disability insurance at the time of his FEP application, which he failed to disclose. Hancock sought rescission of the FEP benefit based on this misrepresentation.

PROCEDURAL HISTORY

Superior Court judge found for insured Banerji on rescission claim and awarded FEP benefits; Appeals Court reversed on rescission, awarding Hancock rescission of FEP benefit; SJC granted further appellate review and affirmed Superior Court judgment on different grounds.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remand to Superior Court for calculation of damages for FEP benefits past due, together with prejudgment and postjudgment interest, and for such other and further relief as may be required consistent with the opinion.

CASES CITED

- Opara v. Massachusetts Mut. Life Ins. Co., 441 Mass. 539 (2004)
- Holden v. Metropolitan Life Ins. Co., 188 Mass. 212 (1905)
- Reidy v. John Hancock Mut. Life Ins. Co., 245 Mass. 373 (1923)
- John Hancock Mut. Life Ins. Co. v. Banerji, 62 Mass. App. Ct. 906 (2004)
- Pahigian v. Manufacturers' Life Ins. Co., 349 Mass. 78 (1965)
- Salisbury v. Monumental Life Ins. Co., 1 F. Supp. 2d 97 (D. Mass. 1998)
- Schiller v. Metropolitan Life Ins. Co., 295 Mass. 169 (1936)
- Gem State Mut. Life Ass'n v. Gray, 77 Idaho 157 (1955)
- Parker v. Russell, 133 Mass. 74 (1882)
- Commissioner of Ins. v. Massachusetts Acc. Co., 314 Mass. 558 (1943)
- Haddad v. Gonzalez, 410 Mass. 855 (1991)
- McClean v. University Club, 327 Mass. 68 (1951)
- Buster v. George W. Moore, Inc., 438 Mass. 635 (2003)
- Wilkinson v. Liberty Mut. Ins. Co., 447 Mass. 663 (2006)
- Preferred Mut. Ins. Co. v. Gamache, 426 Mass. 93 (1997)
- Sandberg v. Metropolitan Life Ins. Co., 342 Pa. 326 (1941)
- Badger v. Titcomb, 15 Pick. 409 (1834)