



محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

In the name of His Highness Sheikh Tamim bin Hamad Al Thani,
Emir of the State of Qatar

Neutral Citation: [2023] QIC (F) 3

IN THE QATAR INTERNATIONAL COURT
FIRST INSTANCE CIRCUIT

Date: 23 January 2023

CASE NO: CTFIC0026/2022

HANAN AL-GHAIS

Claimant

v

AXA INSURANCE GIG GULF

Defendant

JUDGMENT

Before:

Justice Sir Bruce Robertson

Justice George Arestis

Justice Dr Rashid Al-Anezi

ORDER

1. The claim is dismissed.
2. No order as to costs is made.

JUDGMENT

1. This case was allocated to the Small Claim track, but it was unfortunately protracted, and it lasted longer than it deserved due mainly to the fact that the Claimant was not legally represented and conducted the case by herself without clearly explaining from the beginning what her claim was. In her initial Claim Form filed on 25 July 2022 in no more than three very short paragraphs, she claimed as follows:

Provide me the usual international health package at its original price of 16,000 Qatari Riyals; or

Provide me the health package that covers the State of Qatar only, but at the normal price of 2,500 Qatari Riyals.

2. As she briefly explained, she filed a complaint against the Defendant given that she “*purchased an international health insurance policy in 2018, covering all countries of the world in addition to the United States*”. The Defendant did not file a substantive defence to the claim, but instead raised a jurisdictional challenge on the grounds that the matter should be referred first to its internal complains process, and then to the Customer Dispute Resolution Service.
3. The initial Claim Form did not actually disclose a cause of action and the claim could have been rejected right away, but the Court invited the Claimant further to explain her case, considering the fact that she was not legally represented.
4. Responding to the above, the Claimant filed a statement on 13 September 2022 providing little more information, to be summarised as follows: she “*signed a treatment insurance policy since 2018*”, and when the term of her last insurance with the

Defendant ended, she requested the latter to renew the insurance contract “*from the local package*” which costs QAR 5,946.00 “*according to the quote provided by the Defendants to all customers*”. The Defendant instead asked her to pay 28,206 Qatari Riyals. Her claim now is as follows:

To compel the Defendant to renew the policy at the price offered for the local package, that is 5,946 Qatari Riyals, provided that she has the right to benefit from all the advantages she enjoyed over the previous four years.

Compelling the Defendant to pay the expenses and fees.

5. We have to observe here that she abandons her initial remedies and seeks a new remedy.
6. The Defendant, in answer to the above in a new document, first raised an objection to the jurisdiction of the Court, repeating its contentions contained in its initial statement of defence. As to the substance of the case, it contends that the premium for the year 27 July 2021 to 26 July 2022 was QAR 34,908.00, which the Claimant accepted and paid. For the next year, that is 27 July 2022 to 26 July 2023, it charged a premium of QAR 35,257.00, a premium which was not accepted by the Claimant who made a request of it to downgrade the then-current insurance policy. The Defendant did so, offering a new scheme for QAR 28,206.00. The Defendant further argues that “*the premium was getting higher because of the existing chronic condition that member is facing*”. It requests the Court to reject the claim “*and refer the matter to the respective body*”.
7. Due to the rather laconic pleadings of the parties, the Court considered it useful to organise a remote hearing inviting the parties to concentrate on specific issues according to directions issued by the Court and addressed to the parties on 13 November 2022. The directions were the following:
 1. *A remote hearing will take place at 10am (Qatar time) on Sunday 11 December 2022.*

2. *At the hearing, both parties must be fully prepared to advance their respective cases but must, in particular, be in a position to address the following issues:*
 - (a) *The Defendant in paragraph 1 of its defense “contests the jurisdiction of the Court” by referring to the Customer Dispute Resolution Service (“the CDRS”). The Court would like to know whether referral to the CDRS formed part of the contract between it and the Claimant.*
 - (b) *Can the parties confirm that since 2018 there has been a new contract for every year on terms and conditions which were negotiated for every new contract?*
 - (c) *The Claimant refers in her amended Claim Form “to the quote provided by the Defendant to all customers” according to which the “local insurance package costs 5.946 riyals”. Could the Defendant comment on that and also on the Claimants’ allegation that once she accepted the scheme the Defendant was bound by her acceptance?*
 - (d) *Could the Claimant comment on the Defendant’s allegation that the “premium was getting higher because of the existing chronic condition that member is facing”? Was her health condition a relevant factor which the Defendant was entitled to consider in fixing the cost of her insurance scheme?*
 - (e) *Why did the Claimant insist on reaching an agreement with the Defendant if she was unhappy with the way it treated her? Why did she not try to reach an agreement with another insurance company?*
3. *By no later than **4pm on 27 November 2022**, the parties are to file and serve written submissions (limited to no more than 10 pages each) which summarize their respective cases, address the issues raised in paragraph 2 above, and clearly set out the relief they each seek.*

4. *By no later than **4pm on 27 November 2022**, the parties are also to confirm who will be participating in the remote hearing (providing their names, email addresses and contact telephone numbers) as well as whether either or both parties require the assistance of an interpreter at the hearing.*
8. The hearing took place on 11 December 2022. During the hearing, the parties repeated in essence their contentions contained in their pleadings, but at the same time they raised some facts or made reference to new documents not already before the Court. In view of the above, the Court did not reserve its judgment, but sought to have further clarifications by the parties by issuing on 12 December 2022 further directions, and at the same time leaving open the prospect of another directions hearing. The new directions of the Court were the following:

Upon consideration of the documentation filed and served to date, and upon hearing from the Claimant (in person) and the Defendant, on 11 December 2022 at a remote directions hearing,

IT IS ORDERED THAT:

1. *By **16.00 on 2 January 2023**, the Defendant is to:*
 - a. *File and serve the original contract entered into between the Claimant and Defendant in 2018, including but not limited to, any policy document and terms and conditions (the “**2018 Documentation**”).*
 - b. *File and serve a written submission (of no longer than 2 pages of A4, with Times New Roman font size 12, and 1.5 sized spaces between each line) explaining how both the 2018 Documentation and any other documentation already filed and served supports the contention made during the remote directions hearing on 11 December 2022 that the Qatar International Court (the “**Court**”) does not have jurisdiction over this dispute, and in particular, clarify with reasons whether the Defendant’s case is*

(i) *that the Court does not have jurisdiction to deal with this case in any circumstances, or*

(ii) *that the Court does have jurisdiction to deal with this case but only after the Claimant has received a decision from the Customer Dispute Resolution Service.*

2. *By **16.00 on 2 January 2023**, the Claimant is to file and serve any relevant material evidencing an agreement that she asserted was made with a manager of AXA in 2021 to the effect of that should she pay a higher premium in 2021, the premium would be reduced in 2022.*

3. *The Court may make further directions after its consideration of the material submitted under (1) and (2), above.*

9. In response to the above directions, the Claimant filed in Court a short statement repeating in essence an allegation which she put before the Court for the first time during the directions hearing; that is, that the Defendant promised her to decrease the annual premium paid for the year 2021 – 2022 when the contract was to be renewed for the year 2022 – 2023. She contends that it was on the basis of this promise that she accepted in July 2021 to pay the higher premium. The Defendant, however, failed to keep its promise when the insurance policy was to be renewed in July 2022.

10. The Defendant, on the other hand, in response to the said directions of the Court, raised again the objection for lack of jurisdiction of the Court but on grounds different from those stated in their statement of defense. It argues that in the agreement reached between the parties there was an arbitration clause. Therefore, the Claimant should have referred her case to arbitration, if her complaints were not satisfied by the insurance company.

11. The Court decided that no further hearing was necessary and that it could examine and determine the case on the material already before it. There are in fact before the Court two main issues. First, whether the Court lacks jurisdiction to decide this case, and second the nature of the agreement between the parties. As regards this second issue

more specifically, the Court has to decide if an agreement was reached between the parties in 2018 for an indefinite period of time which was binding on the parties for the years to follow until it was terminated by either party, or if an agreement was negotiated and reached upon annually.

12. Based on the material before us and for the reasons we are to give further below, we have decided that in 2018 the parties did not reach an agreement for an indefinite period of time. They negotiated and they renewed their agreement in July of every year since July 2018, on terms and conditions agreed upon every year.
13. Bearing in mind our above conclusion, we have decided that it is unnecessary to determine the jurisdictional issue as a matter of priority or at all and we shall explain why. The contention of the Defendant for lack of jurisdiction of the Court presupposed the existence of an agreement out of which a dispute had arisen between the parties. The dispute between the parties is not one concerning the terms and conditions of an existing agreement, but as we will clarify further below, the terms and conditions of an agreement to be. There is, therefore, no merit in examining any further this issue.
14. We shall now proceed to give our reasons for deciding that there was no agreement reached in 2018 for an indefinite period of time, but that there was a new agreement reached in July every year since July 2018. It is common ground that the Defendant offered the Claimant a health insurance policy for the first time on 26 July 2018 for a “Worldwide Scheme” for a premium of QAR 17,454.00 per year. It is also common ground that there was a renewal of the policy on the same terms and conditions and the same premium until the “insurance” year 27/7/2020 – 2021. It is also common ground that the “Worldwide Scheme” policy was renewed for the following “insurance” year that is until 27 July 2022 but with an increased premium of QAR 34,908.00 which the Claimant accepted and paid. It is also common ground that for the next “insurance” year, that is, until 27 July 2023, the Defendant asked for a further increase of the premium by QAR 349.00 which the Claimant did not accept, and negotiations started between the parties, with the Claimant asking for a decrease in the premium. It is further common ground that when no agreement was reached between the parties on a lower premium on the existing insurance scheme, the Defendant offered and the Claimant accepted a new scheme, that is, instead of the Worldwide Scheme a State of

Qatar scheme. The premium for this new scheme was proposed by the Defendant in the sum of QAR 28,206.00 which the Claimant did not accept, instead counter proposing a premium of QAR 5,946.00 which was rejected by the Defendant. The Defendant argued that the increased premium was a result of the Claimant's chronic health condition. The latter accepted that she suffered from cancer in the last couple of years.

15. We would also like to point out that the Claimant in her initial claim form seeks as remedy for the Defendant either to "*provide her with the usual international health package*" or "*provide her the health package that covers the State of Qatar*". She clearly accepts that she was discussing and negotiating with the Defendant a new agreement for the year 2022- 2023. The Claimant's position was the same answering a question of the Court during the hearing. She said, "*I gave them two options. Either our deal – to the same package for 16,000 or I have no problem to lower it to the lowest level, but I do not want to lost my insurance completely*".

16. For the reasons we have given above, we reached the conclusion that there was not a continuous agreement between the parties, but one reached between them in July every year from July 2018, and this conclusion comes independently of the fact that with the renewal of every annual policy, some terms and conditions of the initial policy were agreed to remain the same. There is therefore no question of a breach of a contract by the Defendant. What in fact the Claimant seeks from the Court is to dictate to the Defendant the terms of an agreement, something unacceptable in law as it is against a fundamental principle of the law of contract, that is to say, the freedom of the parties to negotiate and reach an agreement, according to their own free will.

17. The claim is rejected. Under the circumstances we make no order as to costs.

By the Court,



[signed]

Justice George Arestis

A signed copy of this Judgment has been filed with the Registry

Representation:

The Claimant was self-represented.

The Defendant was self-represented