(2003) 06 NCDRC CK 0055

In the National Consumer Disputes Redressal Commission

AMAR CHAND KUMAWAT — APPELLANT

Vs

LIC of India — RESPONDENT

Date of Decision : 02-06-2003

Acts Referred:

Citation : 2004 3 CPJ 154

Hon'ble Judges : M.A.A.Khan , Ratan Prakash J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal by the complainant is directed against the order dated 8.3.1995 whereby the D.F. dismissed his Complaint No. 3150/1993.

2. THE case of the appellant before the D.F. was that his deceased brother Kanhiya Lal had obtained a life insurance policy from the respondent on his life on 16.8.1990, that the deceased insured died on 28.9.1992, but the claim preferred by the appellant for payment of the assured sum was repudiated by the respondent Insurance Corporation on the ground that the deceased, while obtaining the insurance policy had suppressed material facts relating to his health. On a complaint having been filed by the appellant before it, the D.F. accepted the version of the respondent and dismissed the complaint. It was urged by the learned Counsel for the appellant that there was no evidence on the record of the D.F. to come to the conclusion that at the time of submitting his proposal the deceased insured had in any manner suppressed relevant facts relating to his health. It was pointed out that the deceased insured had died of high fever and that the cause of such death of the deceased was not indicative of the fact that he had been suffering from any illness which was to be disclosed by him to the respondent, at the time of submitting his proposal form.

The learned Counsel for the respondent however submitted that at the time of submitting the proposal form the deceased insured, like other members of his family, was suffering from the disease as ''Sukha Rog'' and that he was also lame/ disabled person at the time of submitting the proposal form to the agent of the respondent Corporation. It was further pointed out that after the death of the deceased insured, his own uncle had informed the Insurance Corporation that the deceased insured was a disabled person and also suffering from ''Sukha Rog'' like other members of his family but such facts were suppressed by him from being disclosed upon the respondent. It was submitted that on investigation conducted by the respondent into such allegations made against the deceased insured as also other members of his family, it came out that the deceased had suppressed the true facts relating to his health at the time of purchasing the policy. It was further submitted that in the course of investigation of the case of another brother of the deceased insured it was known that the deceased suffered from the ''Sukha Rog'' and was a disabled person.

3. AFTER having gone through the material available on the record of the Forum we are of the opinion that the respondent had rendered deficient services to the appellant in repudiating his claim without good reasons. It was not disputed before us that the deceased insured had delivered the proposal form to none else but the agent of the Corporation itself. Again the medical officer appointed by the Corporation for the purpose, had also issued a certificate certifying that the facts disclosed by the deceased insured in the proposal form were admitted to be true before him. These facts themselves show that the deceased insured had appeared not only before the agent of the respondent but also before the medical officer who had examined the deceased at the time of receipt of the proposal form. Had the deceased been a disabled person as is now alleged before us, the agent as well as the medical officer of the respondent could have mentioned such facts in their respective reports and the respondent could have declined to accept the proposal on those grounds. The fact that the deceased was suffering from the disease called ''Sukha Rog'' could have also be known at least by the medical officer before whom the deceased had appeared in person. But such fact was not mentioned either by the agent or by the medical officer of the respondent in their respective certificates. Then the deceased had undisputedly died of high fever, as was reported by the doctor who attended last upon him. The ''Sukha Rog'' had not led to the death of the deceased. The respondent thus did not bring sufficient material on the record of the case to come to the conclusion that the deceased insured had suppressed material fact relating to his health.

4. IN so far as conducting the inquiry on the basis of a complaint filed by an alleged uncle of the deceased after the expiry of one year of his death and in support of such complaint recording statements of certain persons, do not establish the case against the interest of the deceased person particularly in his absence. The complainant does not appear to have ever been required to explain the evidence collected in his absence by the investigator of the respondent. Moreover, those persons who were relied upon in support of such version, were neither examined before the District Forum nor their affidavits were filed. No value, therefore, can be attached to such sort of evidence collected by the respondent much after the death of the deceased insured. In so far as the cause of death of the so called brother of the deceased insured at an earlier point of

time, and the statement made by any person in the course of investigation of the case of such so called brother of the deceased is concerned, no probative value can be attached to such statement. There is no affidavit of any person in that behalf. Moreover, even amongst the members of the same family it cannot be said that the cause of death of one member of his family would be the same in the case of another member of the same family. In view of the above, we set aside the impugned order and allow the complaint of the appellant. We direct that the respondent shall pay to the complainant the assured sum of Rs. 50,000/- with all benefits of the insurance policy of Shri Kanhiyalal. The payment of the above amount shall be paid to the complainant with interest at the rate of 9 per cent per annum from 1.9.1993 within a period of next three months from today. In case the payment of the amount payable to the complainant is not so made within the aforesaid period, the total amount shall carry interest at the rate of 12 per cent per annum from 1.9.1993 till the date of actual payment. The complainant shall also get a sum of Rs. 2,500/- as cost upto our stage. Appeal allowed.