(1995) 02 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

Ameena Begum APPELLANT

Vs

SENIOR DIVISIONAL MANAGER, L.I.C. OF INDIA RESPONDENT

Date of Decision : 22-02-1995

Acts Referred:

Citation : 1995 3 CPJ 53 : 1995 3 CPR 402 : 1996 1 CLT 493

Hon'ble Judges : A.Venkatarami Reddy , J.Ananda Lakshmi , K.Ranga Raos J.

Final Decision : Complaint allowed with costs

Judgement

1. ONE Sri Mohd. Siddiqui husband of the complainant took a Life Insurance Policy with the opposite parties for a sum of Rs. 1 Lakh (one lakh) on 14.11.1987. He died on 3.12.1988. The complainant submitted all the required claim papers to the first opposite party i.e., Senior Divisional Manager, LIC of India, Hyderabad in October, 1989 itself. But after the lapse of nearly 2 years, the complainant received a communication dated 31.3.92 from the opposite parties stating that they have repudiated their liability under the policy as the assured made incorrect statement and withhold correct information at the time of proposal by suppressing the fact that he suffered from diabetes mellitus for which he consulted a medical man and he had taken treatment from him. As the opposite parties repudiated their liability, even after reconsideration, the complaint was filed stating that the assured did not give any false information or withheld any information regarding his health in the proposal form and that the agent filled up all the columns in the proposal form and the assured was examined by a panel Doctor of the opposite parties and the assured was not treated for any diabetes and the repudiation is arbitrary and illegal and that therefore the complainant being the nominee and wife entitled for payment of the amount due under the policy with interest.

2. A counter was filed by the opposite parties stating that the investigation by the opposite parties revealed that the assured had suffered from Infective Hepatitis, I.H.D. and Diabetis Mellitus in September, 1987 and he did not disclose the same in the proposal dated 14.11.1987 and gave false answers to questions

17, 18 and 19 and that therefore the liability of the opposite parties under the policy was rightly repudiated. On behalf of the complainant Exs. A-1 to A-6 were marked. On behalf of the opposite parties Exs. B-1 to B-6 were marked with consent.

On the basis of the aforesaid pleadings, the only question that arises for consideration is whether the assured suffered from Infective Hepatities, IHD and diabetes mellitus from September, 1987 for which he underwent treatment and suppressed the same when he submitted a proposal on 14.11.1987.

3. IT is the case of the opposite parties as could be seen from Ex. B4 letter that they had indisputable proof to show that before the assured proposed for the policy he had suffered from diabetes mellitus for which he had consulted a medical man and had taken treatment from him and he failed to disclose the same in the proposal. In support of their plea, that they made enquiries which disclosed that the assured suffered with diabetes mellitus, the opposite parties placed reliance on Ex. B-5 and Ex. B-3. The Ex. B5 is a questionnaire to be completed by Medical Practitioner who had treated the deceased in the beginning of the last illness and who was not his last Medical Attendant. IT was signed by one Dr. G. Samuel, Civil Assistant Surgeon, Government Hospital, Mahaboobnagar. According to Ex. B-5 Sri Siddiqui consulted the Doctor on 21.11.1988 and the nature of the disease was mentioned as Diabetes mellitus and it was stated that he was suffering with IHD and infective Hepatitis since 16.9.1987. But IHD is prior to 16.9.1987. The History reported on the date of consultation was chest pain. The above information was said to have been given by the patient himself. In Col. 5 relating to symptoms of the illness, it was mentioned as chest pain and it was first observed by the deceased on 21. 11. 1988 With regard to other decree or illness preceded or co-existed, it was stated as infective hepatitis on 16.9.1987. IT was mentioned in Col. 8 that the assured was treated on 16.9.87 for Jaundice, IHD. Relying on Ex. B5 since the proposal was made on 14.11.1987, it is submitted by the learned Counsel for the opposite parties that the assured suffered from diabetes mellitus and was treated for the same by Dr. G. Samuel, But in Col. 8 it was merely mentioned that the deceased was treated on 16.9.87 for Jaundice IHD. While as against Col. No. 2 with regard to the nature of the disease, it was mentioned as diabetes mellitus etc., and he has been suffering with the disease from 16.9.87 as could be seen against the entries in Col. No.3. But it was mentioned in Col. 5 that the symptoms of illness on 21.11.1988 was chest pain. IT was not mentioned against Col. 8 i.e. for what ailments and how long the assured was treated by the Doctor who answered the questionnaire, it was only mentioned that the assured was treated for Jaundice IHD on 16.9.87. These entries on one hand show that the Doctor was first consulted by the assured on 21.11.1988 and that the nature of the disease at that time was mentioned as diabetes mellitus against Col. No. 2. But in Columns 4 and 5, it was mentioned that the history reported by the patient on the date of first consultation was chest pain and that the symptoms of illness was chest pain on 21.11.1988 i.e. the date of first consultation. In view of this inconsistency, we

are not inclined to place reliance on Ex. B5 for concluding that the assured suffered with diabetes mellitus or infective hepetitis IHD on 16.9.87 for which he was treated by a medical man. No other material showing that the assured underwent treatment under G. Samuel and for what period he was treated was produced by the opposite parties. We are, therefore, not inclined to accept the version of the opposite parties by solely relying on Ex. B5 for arriving at the conclusion that the assured was treated for diabetes mellitus on September, 1987 and that he intentionally did not disclose the same at the time of proposal. The next document relied upon by the opposite parties is Ex. B3 which is a certificate of hospital treatment issued by Dr. V. Joel Surender of Durgabai Deshmukh Hospital, Hyderabad. It was mentioned the date of admission as 25.11.1988. Against Col. 3 under whose treatment was the patient, before he was admitted into the hospital, it was mentioned not under any one''s treatment. While as Ex. B5 mention he was under treatment of Dr. G. Samuel on 21.11.88, in Col. 4 what at the time of admission was, (a) the nature of his complaint, (b) the duration of the complaint as reported by him, it was mentioned against Col. 4(a) shortness of breath-2 days, and against Col. 4 (b)-2 days. But even though there was no specific answer to be given in Col. 4, it was added above (a) and (b) that Mr. Siddiqui was a known patient of hypertension and diabetes mellitus. The hand writing of known patient of hypertension and diabetes mentioned against 5(a) seems to be in different handwriting and not in block letters while as all other columns were filled with block letters. The history was said to have been reported to Dr. G.R. Suresh, M.D., while as the certificate was signed by Dr. Joel Surender. The diagnosis arrived at the hospital was mentioned as Ischemic heart disease. Left ventricular failure and hypertension diabetes mellitus. The date of death was mentioned as 3.12.1988. It was not stated tor how long prior to 25.11.1988 that the assured was suffering with hypertension and diabetes mellitus. It cannot be gathered from the certificate whether actually the assured suffered with hypertension or diabetes mellitus prior to the proposal dated 14.11.1987. It was also not mentioned the name of the Doctor who treated the assured either for hypertension or for diabetes mellitus. It, therefore, cannot be gathered from the certificate that the assured suffered with diabetes mellitus prior to proposal and that he was treated for the same by any Medical Practitioner. We are, therefore, satisfied on the material on record that the assured did not suppress any material fact with regard to the state of health at the time of the proposal and that, therefore, repudiation of the liability by the opposite parties is arbitrary and amounts to deficiency of service.

4. HENCE the opposite parties are liable to pay to the complainant a sum of Rs. 1 lakh under the policy with interest. The claim was made some time in October, 1989 after giving a reasonable period of nearly three months, we consider that the complainant is entitled for payment of interest from January, 1990. In the result, the opposite parties are directed to pay a sum of Rs. 1 (one) lakh with interest at 15% p.a. from January, 1990. The opposite parties are also directed to pay costs of Rs. 500/- to the complainant. Complaint allowed with costs.

