(2002) 09 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

AMITA RASTOGI APPELLANT

Vs

LIC of India RESPONDENT

Date of Decision : 09-09-2002

Acts Referred:

Citation : 2003 1 CPJ 193

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , B.K.Taimni J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed by the widow of the insured Om Parkash Rastogi, having lost in the State Commission. 1. Briefly the facts of the case are that late Mr. Rastogi had obtained a Life Insurance Policy for Rs. 1 lakh in June, 1978. Policy was to mature after 15 years in June, 1993. It is the case of the complainant that when this policy lapsed in mid-1986, on account of non-payment of premium, he met the LIC Authorities repeatedly and wrote to LIC on 5.9.1988 and again in July, 1991 but the policy was not revived. As the policy lapsed as a result of non-revival in mid-1991, he approached higher authorities of LIC''s Zonal Office and Head Office. In spite of assurances, it was not revived. THIS amounts to a deficiency in service and claiming several reliefs moved the State Commission who after hearing both the parties and going through the evidence and material on record dismissed the complaint hence this appeal. During the pendency of the complaint before the State Commission, the complainant unfortunately died and the appeal has been filed by the widow of the complainant and the ''nominee'' under the said policy.

2. IT is argued by the learned Counsel for the appellant that it is not disputed that the complainant had a valid policy having been taken on 28.6.1978. Upon the lapsing of the policy, the complainant immediately contracted the respondent to revive the policy but to no avail. His having written two letters in September, 1988 and July, 1991 have not been denied. IT was the duty of the respondent to revive the policy on being approached, their failure to do so is a clear case of deficiency in service. The complainant is informed only in 1991 that policy cannot

be revived as five years period had expired since the lapse of the policy. The major lapse is that the complainant was never informed of the non-payment of premium. They have a duty of care towards the policy holders. For this, he relied on III (1993) CPJ 1752, II (1993) CPJ 493, and 1991 (1) CPR 227. On all these grounds the order of the State Commission needs to be set aside and the complaint be allowed with costs. On the other hand, it is argued by the learned Counsel for the respondent that there has been no lapse or deficiency on the part of the respondent. It is the whole conduct of the complaint which must be seen from the beginning to appreciate his subsequent conduct. At the time of getting the policy, premium is deposited by cheque, the cheque is dishonoured. Again a cheque issued for payment of quarterly premium in March, 1980 is dishonoured. For the first time the policy lapses in September, 1980, this is revived on request and a loan obtained from LIC against the policy; the policy again lapses in September, 1982, and is revived again on the request of the complainant in June, 1983. The policy again lapses for non-payment of premium due in June, 1983 which is revived in December, 1985, adjusting the premium from the loan and the remainder amount given to the complainant. For the last time the policy lapsed on 28.3.1996. Complainant made a request for revival after almost two and a half years in September, 1988 but did not pursue; a further request was made in October, 1990 again after two years wherein the complainant was informed through an endorsement on the letter dated 5.10.1990 that he should personally call on the Development Officer which he did but only on 17.7.1991 by which time the period of two years for revival of the policy had lapsed. In these circumstances and especially in the light of continuing conduct of the complainant, no deficiency of service stands proved against the respondent. Had the matter been pursued by the complainant the respondent would have revived the policy as was done thrice earlier. The difficulty was that even at the late stages the complainant was linking payment of premium for the lapsed period against loan to be given by the respondent, when there were no sufficient amount under that head the complainant having taken loan from time to time to pay the premiums of lapsed policies as well as taking the money home. No case is made but to interfere with the well-reasoned order of the State Commission, hence this appeal needs to be dismissed with costs.

We have heard the arguments and perused the material on record. The undisputed facts are that the complainant had obtained a life insurance policy for himself in 1978 for Rs. 1 lakh maturing after 15 years i.e. 1993. There is no dispute that the complainant did not pay premium amount after 23.3.1986 and since no effort was made towards payment of premiums to revive the policy in spite of certain mutual correspondence within the period of five years from the date of lapse of policy effective 23.3.1986, the policy finally lapsed with no possibility of revival after March, 1991. The dispute veers around two points. What should have the parties done to revive the policy and was it done ? As far as first point is concerned, the resolution was simple - the complainant should have paid the premium even after some delay with necessary charges to get the policy revived. Admittedly, this was not done hence deficiency, if any is on the part of the complainant. It is admitted position that the complainant approached in writing the respondents for revival but without depositing any premium amount. When complainant is asked to meet the Development Officer in October, 1990, he does not meet him till July, 1991 by which time the five years'' period to revive a lapsed policy had expired. What the complainant was trying to do was to get a loan to pay premium. How can one be so naive to look for a loan on a lapsed policy - especially when the respondents were of the view that enough balance was not available to advance a loan to the complainant as he had already taken loans to make payments against lapsed policy. The complainant was perhaps making it a policy to allow the policy to lapse almost on a regular basis to ask for revival by taking a loan against the same policy. No sincere efforts seem to have been made as per record to revive the lapsed policy except writing two letters in 1988 and 1990 after two and half years of lapse of the policy. Bona fide of the complainant would have surfaced only if he had also deposited the requisite amount to get the policy revived. No such effort is on record. The learned Counsel for the complainant has relied upon the four citations in his support. We have gone through these citations and find that none of them help the complainant as the facts and the outcome are quite different from the instant case. The citation III (1993) CPJ 1752, deals with a case of group insurance where there was a failure on the part of the employer to deduct premium from the salary and it was held to be a case of negligence on the part of the insurer as the fact of non-deduction was not brought to the notice of the employer by the insurer. In II (1993) CPJ 853, deals with the question of not responding to a claim preferred by the insured. In II (1993) CPJ 493, deals with non-payment of policy amount after alleged lapse of policy on account of payment of one premium and State Commission holding that premium notice should have been issued. In the instant case, it is not the case of the complainant that the policy lapsed as he did not know of the date/month of premium to be paid. Had the complainant paid premium in 1988 when a letter was written by the complainant for revival of the policy (this is a proof in itself that he knew that policy had lapsed on account of non-payment of premiums), the policy would have been revived as had been done earlier. The case decided in 1991 (1) CPR 227 also relates to the responsibility of LIC to verify timely payments and in case of non-receipt of payment, remind the insured of the same. As stated earlier, this was not the case here. The complainant knew that the policy had lapsed. He knew it in 1988, he knew it in 1990 when he wrote to the respondent for the second time for revival of the policy that the policy had lapsed but no effort by way of paying up the outstanding dues was made by him to get the policy revived. All these citations do not help the complainant. We do not wish to dwell on the conduct of the complainant about his cheques getting dishonoured twice, policy lapsing thrice and revived later on. After examination of the material on record we find no deficiency on the part of the respondent to call for our interference in the order passed by the State Commission. This appeal is dismissed. We would have imposed costs on the complainant but refrain from doing so as he unfortunately expired in 1995 and the case is being agitated by his wife, whom we would not like to burden with costs. Appeal dismissed.

