(2004) 06 NCDRC CK 0075

In the National Consumer Disputes Redressal Commission

ASHOK KUMAR GUPTA APPELLANT

Vs

Life Insurance Corporation of India RESPONDENT

Date of Decision : 07-06-2004

Acts Referred:

Citation : 2004 2 CPR 642 : 2004 3 CLT 319 : 2004 3 CPJ 328

Hon'ble Judges : V.K.Agrawal , R.S.Awasthis J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal, under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 29.12.2003 in Complaint No. 16/2000 by District Consumer Disputes Redressal Forum, Bilaspur (hereinafter called the ''District Forum'' for short) dismissing the complaint of the complainant/appellant.

2. THE relevant facts not in dispute are that the insured Snehlatha Gupta was the wife of the complainant/appellant. She obtained a Life Insurance Policy from the respondent/insurer for the period from 28.9.1995 to 28.9.2010 for an assured sum of Rs. 20,000/-. A declaration was also filled up by the insured in which she stated that she does not suffer from any disease including diabetes, T.B., High B.P. etc. THE insured died on 19.11.1997. THE complainant laid claim under the policy with the respondent/insurer. However, the respondent repudiated the claim by its letter dated 9.2.1999 on the ground that the complainant insured suppressed material facts that she was suffering from diabetes mellitus and hyper tension. Feeling aggrieved by the repudiation as above, the complainant lodged the complaint before the District Forum. It was averred therein that the insured did not suppress any material fact in her declaration form that repudiation of complainant''s claim by the respondent was without justification. It was prayed that assured sum with interest be awarded.

The complaint was resisted by the respondent/insurer, mainly on the ground that the complainant had suppressed in her declaration the material facts of her suffering from chronic diabetes etc.

3. DISTRICT Forum in the impugned order accepted the objections of the respondent/insurer and held that as there was material suppression of facts, the repudiation of the complainant''s claim could not be held to be unjustified. Accordingly, the complaint was dismissed. Learned Counsel for appellant submitted that it was for the insurer to have proved the breach of agreement of policy. In the present case it is alleged that the insured was guilty of suppression of material facts, and thus committing breach of faith and confidence, on which the agreement of life insurance rests. In this connection learned Counsel for appellant relied upon the decision of National Commission in the New India Assurance Co. Ltd. and Another v. P.P. Khanna, II (1997) CPJ 1 (NC)=1997 (2) CPR 21 (NC) , wherein it has been laid down that the burden is on the insurer to prove the allegation of fraudulent suppression of material facts. It has, therefore, to be considered as to whether the suppression of material facts by the insured, has been duly established by the respondent insurer in the instant case?

4. IT may be noticed that the policy was undisputably obtained on 28.9.1995 and death of the deceased took place on 29.12.1997, on account of cardiac arrest and cardiac respiratory failure. The death was due to DM Nephropathy c dilated cardiomyopathy c CRF (cardio respiratory failure) c right side plural diffusion. The medical certificate issued by Dr. Rakesh Saigal it was stated that the patient died of Cardiac Respiratory failure secondary to chronic renal failure. IT would thus appear that renal failure of the patient insured led to cardio respiratory arrest, which was the immediate cause of death. IT may also be noticed that the deceased insured had stated in her proposal for revival of policy, that she was not suffering from diabetes, T.B., Hypertension etc. However, certificate issued by Dr. S.K. Tiwari and Dr. Rakesh Saigal indicates that deceased was an old case of diabetes Mellitus with hypertension and had developed DM Nephropathy and Cardiomyopathy. The doctors as above had referred the deceased to Vidya Hospital and Kidney Centre, Raipur as has been mentioned in the discharge certificate of the said hospital. Therefore, genuineness of the certificates of Dr. Rakesh Saigal and Dr. S.K. Tiwari cannot be doubted. IT would, therefore, be clear that the deceased was suffering from diabetes for a long time which ultimately led to her death. In view of the above, it is clearly established that the statement of the deceased in its proposal form, for revival of the policy, that she was not suffering from diabetes was false to her knowledge. This clearly amounts to suppression of material facts regarding her health as has been rightly held by the District Forum. Therefore, the claim of the complainant/appellant was rightly repudiated by the respondent/insurer. The complainant/appellant cannot succeed in his claim for compensation under the policy, as has been prayed by him in the complaint. Accordingly, impugned order dismissing the complaint calls for no interference. This appeal has no substance. It is accordingly dismissed. Appeal dismissed.

