

(2007) 06 NCDRC CK 0036

In the National Consumer Disputes Redressal Commission

AVIVA LIFE INSURANCE CO. INDIA PVT. LTD.

APPELLANT

Vs

T. UMAVATHI

RESPONDENT

Date of Decision : 05-06-2007

Acts Referred:

Citation : 2007 3 CPJ 336

Hon'ble Judges : S.N.Kapoor , Rajyalakshmi Rao J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS revision petition is filed by Aviva Life Insurance Co. India Pvt. Ltd. against the order dated 27.2.2007 passed by the Karnataka State Consumer Disputes Redressal Commission, Bangalore in Appeal No. 305 of 2007. Brief facts of the case :

2. RESPONDENT T. Umavathi is wife of late T.G. Thuyavan, the insured, who had taken a policy from the petitioner w.e.f. 23.2.2004. The insured died on 2.1.2006 due to heart attack. The District Forum allowed the complaint and petitioner's appeal was dismissed by the State Commission. Petitioner contended that the insured suppressed the fact that he had taken treatment in Jayadeva Institute of Cardiology Hospital and that the hospital recorded that insured had diabetes since 12 years. The insured died on 2.1.2006 due to massive heart attack. The petitioners had not shown any evidence that the insured was aware of the disease prior to the date of proposal. Merely on the basis of an observation made by a doctor during one day stay in the hospital and without filing any affidavit of the doctor, who has made the said observation the claim was repudiated on the grounds of suppression of disclosure of disease at the time of taking the policy whether the insured had prior knowledge of his condition before taking the proposal form and whether he was under treatment has not been established by the petitioners. In similar cases our Commission observed earlier in II (2005) CPJ 78 (NC), in the case of LIC of India v. Joginder Kaur & Others, on which the learned Counsel for the complainant relied upon, this Commission has held that the allegation of concealment of material facts is not acceptable in the absence of

any evidence in support thereof and the Commission has observed as under :
"Simple allegations made by the petitioner that the deceased was alcoholic; was suffering from diabetes mellitus, and jaundice, etc. would not be sufficient. The unproved case history recorded by some person on the date of admission of Sh. Bachan Singh, the deceased, would not be cogent and convincing evidence to repudiate the claim unless it was coupled with medical report for the treatment prior to submission of the proposal form."

In the present case also no evidence has been brought on record whether the insured had prior knowledge of the diseases mentioned a day before his death by the hospital cannot be relied upon without supporting evidence.

3. IN view of the above discussion, we find the orders passed by the District Forum and State Commission are justified. There is no reason to interfere in revisional jurisdiction under Section 21(b) of the Consumer Protection Act. Revision Petition dismissed.