(2012) 11 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

Bajaj Allainz Life Insurance Company Ltd APPELLANT

Vs

Sowbhagyalaxmi RESPONDENT

Date of Decision : 02-11-2012

Acts Referred:

Citation : 2012 0 NCDRC 651 : 2013 1 CPJ 58

Hon'ble Judges : J.M.Malik , Vinay Kumar J.

Advocate : Pankul Nagpal

Judgement

1. THESE two revision petitions arise out of a common impugned order passed by the AP State Consumer Disputes Redressal Commission in FA No.527 of 2010 and FA No.363 of 2010. In the first, the appeal of the Complaint has been allowed and the OP/Insurance Company has been directed to pay Rs.10,00,000/- with 9% interest. In the second, the appeal of the OP against the order of the District Forum in which an award of Rs.2,00,000/- in favour of the Complainant was made, has been dismissed.

2. BOTH revision petitions have been filed with delay of 69 days, which is sought to be explained in an application for condonation thereof. The application does not even mention the exact date on which the petitioner came to know about the passing of the impugned order. It may be stated that a copy was received in the second week of December. Apparently, some time was spent in movement of papers from the Zonal office Chandigarh and the Delhi office of the revision petitioner, but no details are indicated. Even the following statements in the condonanation application offer no help in determining either the duration or the cause for delay- a) After it was decided that the revision petition should be filed, the relevant files kept lying in the Delhi office without any action. (para 4) b) Zonal Legal Manager spent considerable amount of time in collecting the data from the various branches. (para 6) c) Only in the last week of April it was discovered that the case had not been assigned to any Advocate. (para 8)

It is clear from the above that no conscious afford had been made to clearly explain the delay at various stages in the office of the petitioner/ Bajaj Allianz

Life Insurance Company Ltd. We therefore, reject the explanation and consider the revision petition liable for dismissal on account of limitation.

3. COMING to the merits, we find that the petitioner has challenged the common impugned order on several grounds most of which are only in the nature of reiteration of the contention that the petitioner has rightfully repudiated the claim on the ground of failure to disclose material particulars in the proposal form for insurance. This question has been considered at a great length by the State Commission with reference to the records. The State Commission has observed that:- "11. The Insurance Company entrusted the matter to Satyam Investigation Private Limited to enquire into the claim. If found that that the deceased had suffered from blood motions for one and half years, and he was a known alcoholic and smoker and consequently died. The fact that Satyam Investigations had conducted enquiry is not evidenced either by a report or affidavit evidence of the investigator, who said to have conducted investigation and visited Dr. T.Srinivas. No certificate was even taken from Dr.T.Srinivas to state that Sunka Anandam had the above ailment. In fact in Ex. A.1 repudiation letter dated 28.02.2008, the fact that they have entrusted the matter to Satyam Investigations and that it made an enquiry with Dr. T. Srinivas does not even find a place. What all it was stated was: "However, on receiving the death claim intimation for the above said policy, the various medical records received confirm that late Mr. Sunka Anandam was suffering from bleeding PR off and on since one year from June, 2007. This fact known to late Mr. Sunka Anandam was not disclosed in the proposal form dated 29.08.2007. " 12. The Insurance Company did not disclose the material from which it could gather the above information. In fact the complainants themselves filed a report, Ex.A.4 issued by Dr. T. Sreenivas, M.D. The Ultra Sound Abdomen report discloses that he was not suffering from any ailment. The impressions were "NO SONOGRAPHIC ABNORMALITY NOTED. SUGGESTED CLINICAL CORRELATION. " Equally, Haemotology Report and Bio-Chemistry Report do not confirm that he was suffering from any ailment. The complainants themselves submitted Ex. A.11 certificate issued by Dr. T. Srinivas, M.D. dated 24.12.2007, obviously a family doctor, who certified that he had some viral fever. He did not state any where that he was admitted as an in patient, nor the fact that he was suffering from blood motions, etc. "

4. IT needs to be observed that the insurance company has substantially relied upon the report of Satyam Investigation Pvt. Ltd., but the report has not been proved before the fora below. The investigator has not been examined. Before the District Forum OP/Insurance Company had marked seven exhibits which did not include the investigation report. Similarly, the O P/Insurance Company relied upon the report of the investigator that according to Dr. T. Srinivas, the deceased had certain ailments. But, he was not examined. As observed by the State Commission, no report from Dr. Srinivas was produced on the alleged ailments. On the other hand, the Complainants themselves have filed a report given by Dr. Srinivas as Ext. A-4. We may add that haematology and biochemistry reports

relied upon by the OP/Insurance Company as Ext. B-5 and B-6 also do not carry any adverse comments with respect of the health of the deceased. We are therefore, in agreement with the finding of the State Commission that the insurance company could not prove from their investigation or from medical reports that the deceased suffered from those ailments.

5. IN the light of the details examined above, revision petition Nos. 1955 of 2012 and 1956 of 2012 are dismissed on the ground of limitation as well as merit.

