

(2013) 08 NCDRC CK 0070

In the National Consumer Disputes Redressal Commission

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD

APPELLANT

Vs

NITIN VERMA

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Citation : 2013 0 NCDRC 570 : 2013 3 CPJ 679

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : SUMAN , ASHWANI VERMA

Judgement

1. THIS revision petition has been filed by the petitioner/OP against the order dated 01.11.2012 passed by the State Consumer Disputes Redressal Commission, U.T., Chandigarh (in short, "the State Commission ") in Appeal No. 251 of 2012 - Bajaj Allianz General Ins. Co. Ltd. Vs. Nitin Verma and Anr. by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that Smt. Suman Verma, mother of Complainant No.1/Respondent no.1 and wife of Complainant No. 2/Respondent No.2 took a Travel Care Insurance Policy from OP/petitioner on 15.4.2011 for the period from 22.4.2011 to 20.6.2011. Smt. Suman Verma died on 28.4.2011 in USA. Claim was filed before OP, which was repudiated on the ground of pre-existing disease. Alleging deficiency on the part of Petitioner/OP, Respondents/complainants filed complaint before District Forum. OP contested complaint and submitted that claim was repudiated on the ground of suppression of pre-existing disease; hence, complaint may be dismissed. Learned District Forum after hearing both the parties, allowed complaint and directed to pay \$10659 (US) in the Indian Currency Value to be calculated on the basis of May, 2011 rates along with Rs.30,000/- as compensation and Rs.15,000/- as litigation cost. It was further directed that order may be complied within a period of 30 days failing which, OP will be liable to pay aforesaid amount along with 12% p.a. interest from 2.6.2011, i.e. the date of repudiation of the claim till payment. Appeal filed by the petitioner was dismissed by learned State Commission vide impugned order

against which, this revision petition has been filed. Heard learned Counsel for the petitioner and Respondent no. 2 in person.

3. LEARNED Counsel for the petitioner submits that she presses revision petition only to the extent of awarding penal interest and does not press other prayers, as payment has already been made to the respondent. Learned Counsel for the petitioner submitted that after awarding compensation, learned District Forum has committed error in further allowing 12% p.a. interest; hence, revision petition be accepted to this extent. On the other hand, Respondent No. 2 submitted that order passed by learned State Commission and District Forum are in accordance with law; hence, revision petition be dismissed.

4. PERUSAL of order of District Forum reveals that 12% p.a. interest has been awarded from the date of repudiation of claim till its actual payment, only if order of District Forum for making payment is not complied with by the petitioner within a period of 30 days. In such circumstances, award of interest cannot be said to be penal interest, but it appears that interest has been awarded only for due compliance of the order within a period of 30 days. In such circumstances, grant of interest cannot be termed as penal interest. No doubt, interest has been awarded from the date of repudiation of the claim, whereas interest should have been allowed from the date of order of District Forum because 30 days period was given for compliance of the order of District Forum and interest has been awarded only on failure to comply with the directions within 30 days. In such circumstances, revision is liable to be allowed partly. Consequently, revision petition filed by the petitioner is allowed in part and impugned order dated 01.11.2012 passed by the State Consumer Disputes Redressal Commission, U.T., Chandigarh in Appeal No. 251 of 2012 - Bajaj Allianz General Ins. Co. Ltd. Vs. Nitin Verma and Anr. and order of District Forum dated 27.6.2012 passed in CC No. 652 of 2011 is modified and date 2.6.2011 mentioned in the order of District Forum is modified by the date 27.6.2012 and revision petition stands dismissed for rest of the reliefs claimed in revision petition. There shall be no order as to costs.