(2017) 03 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

Case No : 1053 of 2008

BALESHWAR SINGH APPELLANT

Vs

LIFE INSURANCE CO.& ORS. RESPONDENT

Date of Decision : 16-03-2017

Acts Referred:

Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : 2017 2 CPR 324

Hon'ble Judges : B.C. Gupta, Prem Narain

Advocate : Avdhesh Kr. Singh, Nikhil Jain

Judgement

1. This revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 against the impugned order dated 12.02.2008, passed by the Bihar State Consumer Disputes Redressal Commission (hereinafter referred to as ''the State Commission'') in Appeal No. 711/2006, "Life Insurance Corporation of India (LIC) & Ors. Vs. Baleshwar Singh" vide which, while accepting the said appeal, the order passed by the District Forum Chhapra in consumer complaint No. 128/2002, filed by the present petitioner, allowing the said complaint, was set aside, and the complaint was ordered to be dismissed.

2. The facts of the case are that the petitioner Baleshwar Singh filed the consumer complaint in question before the District Forum, saying that his deceased brother Tarkeswar Singh had obtained two insurance policies from the Opposite Party (OP) LIC - one policy No. 532495010 for a sum assured of 2 lakh and another policy No. 532638677 for a sum assured of 2.25 lakh. The said Tarkeswar Singh died on 18.08.2000 due to snake bite. The petitioner/ complainant, being a nominee under the policy No. 532638677, filed claim before the LIC which was rejected by them on the ground that while taking the said policy, the insured had not disclosed about the earlier policy taken by him. The consumer complaint was filed, seeking directions to the OP LIC to pay a sum of 2.25 lakh as sum assured under the second policy.

3. The complaint was resisted by the OP LIC by filing a written statement before the District Forum in which they stated that the insured had concealed material facts of obtaining the first policy from the OP LIC fraudulently and hence, he was not entitled to the claim under the Policy. The LIC stated that the date of commencement of the said policy was 28.04.2000. On submission of claim, it was found on verification that the factum of obtaining the earlier policy had not been disclosed in the proposal form deliberately, with an intention to avoid detailed medical examination. The OP stated that a contract of insurance was of utmost good-faith and hence, the claimant was not entitled to be paid the claim under the said Policy.

4. The District Forum after taking into account the averments of the parties, allowed the consumer complaint vide their order dated 31.07.2016 and directed the LIC to make payment of 2.25 lakh within a month alongwith interest @7% p.a. and a cost of 1,000/-. Being aggrieved against the said order of the District Forum, the OP LIC challenged the same by way of appeal before the State Commission. The State Commission accepted the appeal and set aside the order of the District Forum, saying that in view of suppression of material fact on the part of the insured, the contract of insurance could not be enforced. Being aggrieved against the said order of the State Commission, the petitioner/ complainant is before us by way of the present revision petition.

5. During arguments, the learned counsel for the petitioner stated that although the deceased did not mention in the proposal form about taking a previous policy, he had sent a letter to the OP LIC under postal certificate, informing them about the previous policy. It was, therefore, the duty of the LIC to have checked its own record. The learned counsel submitted that the LIC was bound to make payment of the claim under the Policy, as the insured died due to snake bite. There was no suppression of any material fact on his part. On the other hand, the learned counsel for the respondent LIC stated that the order passed by the State Commission was in accordance with law and it should be upheld. The learned counsel has drawn attention to an order passed by this Commission in " RP No. 382/2011 decided on 16.07.2012, "LIC of India vs. Vidya Devi & Anr. ", in which, it has been stated that the repudiation of claim for non-disclosure of material fact on the part of the insured, was justified.

6. We have examined the entire material on record and given a thoughtful consideration to the arguments advanced before us.

7. The main issue for consideration in the matter is whether non-disclosure of the earlier policy taken by the insured, while filling the proposal form for obtaining the second policy, amounts to suppression of such a material fact as it may justify the repudiation of the claim by the OP LIC.

8. The facts on record make it very clear that the insured died on 18.08.2000 due to snake bite and not on account of any other disease. The main contention raised by the OP LIC says that the insured deliberately concealed the factum of

obtaining the previous policy, as he wanted to avoid his detailed medical examination, while taking the second policy. This contention on the part of the OP LIC is, however, without force, because the insured did not die on account of any other disease etc. Had the insured died because of any other disease and the said disease had not been disclosed to the LIC at the time of obtaining the insurance policy then it could have been stated that there was a suppression of material information on his part. There is also no evidence that the insured was suffering from any other disease etc. The State Commission has rightly held that there was no nexus between the cause of death and suppression of a fact.

9. In the light of the facts stated above, when the death has occurred due to snake bite, the action of the OP LIC in repudiating the claim on the ground that the earlier policy was not disclosed, is not justified by any stretch of imagination. This revision petition is allowed, the order passed by the State Commission is set aside and the order passed by the District Forum allowing the consumer complaint in question, is restored. There shall be no order as to costs.

