(2011) 07 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

Bhanwari Devi APPELLANT

Vs

Bharatiya Jeevan Bima Nigam RESPONDENT

Date of Decision : 19-07-2011

Acts Referred:

Citation : 2011 0 NCDRC 458 : 2011 3 CPR 185 : 2011 3 UC 2359 : 2011 4 CPJ 71

Hon'ble Judges : R.K.Batta , Anupam Dasgupta J.

Final Decision : Appeal dismissed

Judgement

1. THIS revision petition has been filed by the original complainant against the order dated 4th March 2010 of the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (in short, ?the State Commission?) in appeal no. 824 of 2009. By this order, the State Commission allowed the appeal of the respondent/ opposite party/ Life Insurance Corporation of India (in short, ?the LIC?) and set aside the order dated 1st April 2009 of the District Consumer Disputes Redressal Forum, Nagaur, Rajasthan (in short, ?the District Forum?) and also dismissed the complaint of the petitioner/ complainant.

2. THE husband of the complainant (deceased life assured) had taken a life insurance policy for Rs.75,000/- on 28th December 2007. THE life assured died on 15th March 2008 whereupon his wife, the nominee, submitted the insurance claim to the respondent/LIC. THE LIC repudiated the claim by its letter dated 15th October 2008. THE main ground was non-disclosure of the status of his health by the life assured in his proposal for the insurance policy. LIC pointed out, in particular, that the deceased was suffering from cancer before the submitting the proposal form for life insurance and was also undergoing treatment therefor in a hospital but did not disclose any of these facts in the signed proposal. On repudiation of her claim, the petitioner filed a consumer complaint before the District Forum. THE District Forum, by its order dated 01.04.2009, allowed the complaint by directing the OP/LIC to pay to the complainant/petitioner the sum of Rs.75,000/- along with all the policy benefits

as also interest @10% per annum from 15th October 2008 till actual release and cost of Rs.5000/- This is the order which was challenged by the LIC before the State Commission, with the result already mentioned above. We have heard Mr. Aneesh Mittal and Mr. Buddy A. Ranganadhan, learned counsel for the parties.

While Mr. Mittal has strongly supported the order of the District Forum, Mr. Ranganadhan has emphasised that non-disclosure of material information regarding the status of his health by the life assured before the obtaining the life insurance policy would render the contract of insurance null and void ab initio as has been held by the Supreme Court in several judgments, including that in the case P. C. Chacko and Another vs Chairman, Life Insurance Corporation of India and Others (2008) [1 Supreme Court Cases 321]. He also invited our attention to the order dated 23rd January 2006 of this Commission in Life Insurance Corporation of India vs Krishan Chander Sharma ? [II (2007) CPJ 51 (NC)].

3. (i) The contention of Mr. Mittal is that the LIC was not been able to establish before the District Forum that Babulal Jatesa who was admitted to Acharya Tulsi Regional Cancer Treatment and Research Centre, Sardar Patel Medical College, Bikaner for treatment of cancer during July 2005 was the same Person as the life assured, namely, Babu Lal Meghwal. (ii) On this Point, the State Commission has observed as under: ????????..as Per record available on file in Bed head ticket dated 16.07.2005 of Acharya Tulsi Regional Cancer, Medical Health and Research Centre, Bikaner, clearly name of deceased Babulal, Village Jatera, Nagaur and father?s name Umarao is written whereby it is clear that before taking above Policy dated 25th December 2007 and before health check-uP, he was suffering from cancer disease and for getting medical treatment of his cancer disease, the above deceased was admitted in Acharya Tulsi Regional Cancer Medical and Research Center, Bikaner on 16.07.2005 and was discharged on 17.07.2005?. (iii). There is, therefore, no doubt about the identity of the deceased life assured and the fact that he actually suPPressed material facts regarding the status of his health in his ProPosal for the insurance Policy when, in rePly to questions at sr. no. 11 [(a) to (j)] he comPletely denied that he ever suffered from cancer or had ever been admitted to a hosPital/ nursing home for treatment. The fact that the indoor record of the life assured at Acharya Tulsi Regional Cancer Treatment and Research Centre was not sPecifically Proved by the doctor concerned cannot helP the case of the comPlainant, in view of the ratio of the judgment of this Commission in the case of LIC of India vs Krishan Chander Sharma referred to above.

In conclusion, we find no reason to interfere with the imPugned order of the State Commission under Provisions of section 21 (b) of the Consumer Protection Act, 1986. The revision Petition is thus dismissed being devoid of merit and the order of the State Commission is confirmed.