
(2016) 09 NCDRC CK 0124

In the National Consumer Disputes Redressal Commission

Case No : 567 of 2016

BIRLA SUN LIFE INSURANCE COMPANY LTD., & ANR.

APPELLANT

Vs

HARISH KUMAR CHADHA & ANR.

RESPONDENT

Date of Decision : 26-09-2016

Acts Referred:

Citation : (2016) 09 NCDRC CK 0124

Hon'ble Judges : B.C. Gupta

Advocate : Titasha Banerjee, Alok Pandey, Gaurav Singh

Final Decision : Petition Dismissed

Judgement

1. This revision petition has been filed against the impugned interim order dated 13.10.2015, passed by the Delhi State Consumer Disputes Redressal Commission (hereinafter referred to as "the State Commission") vide which, the right of the petitioner insurance company to file reply to the memo of appeal was closed by the State Commission. Notice of the petition was issued to the respondents, in response to which respondent-1/complainant appeared in person and respondent no. 2 put in appearance through counsel. The learned counsel for the parties as well as respondent No. 1, were heard.

2. It has been stated by the learned counsel for the petitioner that after receiving notice of First Appeal No. 490/2013, filed by the complainant/respondent No. 1 from the State Commission, their Advocate appeared before the State Commission on 21.04.2014, filed his vakalatnama and sought time to file his reply. The said Advocate appeared on the subsequent dates of hearing, i.e., 27.10.2014 and 11.05.2015 also, but sought adjournments to file reply every time. On 11.05.2015, the adjournment was given subject to payment of cost of 5,000/- and the matter was fixed for 13.10.2015. However, for non-filing of the reply even on 13.10.2015, the District Forum passed the impugned interim order closing their right to file the reply. The learned counsel stated that the lawyer engaged by them was responsible for not filing the reply and because of his negligence, they should not be allowed to suffer. Subsequently, they engaged

another Advocate to defend the case before the State Commission.

3. The respondent No.1/complainant stated that the petitioner had delayed the filing of reply without any reason and he should not be allowed to suffer on account of their fault. The order passed by the State Commission was, therefore, in accordance with law.

4. It is evident from the own version of the petitioner that right from the day they received notice from the State Commission on the appeal filed by the complainant/respondent No. 1, they were fully aware that their Advocate was not cooperating with them and was obtaining adjournments repeatedly without any justifiable reason. It was the duty of the petitioner to ensure, therefore, that steps were taken for proper defence of the case by hiring another Advocate. It has been admitted in the grounds of the petition by the petitioner that their Advocate entered appearance for the first time on 21.04.2014. The impugned order has been passed on 13.10.2015 meaning thereby that even within a period of 1 1/2 years, the petitioner failed to file reply before the State Commission. There is, therefore, no valid ground to interfere with the orders passed by the State Commission. The revision petition is, therefore, ordered to be dismissed and the order passed by the State Commission is upheld. It is made clear that the petitioner shall be at liberty to file their written arguments, if any, before the State Commission in terms of Regulation 13 of Consumer Protection Regulations, 2005.