(1999) 11 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

Branch Manager, LIC of India APPELLANT

Vs

N.A.VELUTHA RESPONDENT

Date of Decision : 22-11-1999

Acts Referred:

Citation : 2000 3 CPJ 462

Hon'ble Judges : L.Manoharan , K.M.Latha , R.Vijayakrishnan J.

Final Decision : Appeal dismissed

Judgement

1. THE opposite party in O.P. No. 125/98 on the file of the Consumer Disputes Redressal Forum, Alappuzha is the appellant. Complainant alleged that his deceased wife Radhamony was the policy holder for Rs. 20,000/-. She died on 3.7.1996. She had remitted by cheque Rs. 337/- towards the premium on 14.5.1996. On her death though the claim was made, the opposite party repudiated the claim, he wanted redressal. In the version the opposite party sought to maintain that the said cheque was received only on 26.7.1996 and the policy had lapsed on 20.4.1996 as the premium was not remitted on due date. In such circumstances the complainant was not entitled the policy amount, the opposite party wanted dismissal of the complaint. THE complainant gave evidence as P.W. 1 and examined P.W. 2 and P.W. 3. In the complainant''s side Exts. P1 and P2 were produced. On behalf of the opposite party R.W. 1 was examined and Exts. B1 and B2 were produced. On a consideration of the said evidence the District Forum made a direction to the opposite party to pay the policy amount Rs. 20,000/- plus accrued benefits and also interest @ 12%. THE said direction by the District Forum is under challenge in this appeal.

2. LEARNED Counsel for the appellant sought to maintain that the view of the District Forum that the cheque in question was tendered before the opposite party by the deceased herself on 14.5.1996 is not true or correct; as a matter of fact the cheque was received not only after the due date of remittance but was after the death of the insured. Among other things the opposite party sought to maintain that the cheque in question was received by post; that is what R.W. 1

said in his chief-examination. Though Ext. B2 extract of remittance register was produced by the opposite party, when R.W. 1 was asked, if the cheque alone was received as to how he could credit the amount against the policy of the deceased, he said that there might have been a letter alongwith the cheque. But he admitted that such a letter is not produced. One important aspect to be noted is, if cheque alone reached the opposite party through post, then it might not have been possible to credit it against the policy of the complainant without details. That is why R.W. 1 in his cross-examination said that there might have been a letter alongwith the cheque. Probably he wanted to maintain that the details of the cheque etc. was in that letter. In view of the said statement by R.W. 1 in his cross-examination, it is not probable that the cheque could have reached the opposite party by post. Inasmuch as the amount is credited against the policy of the deceased unless there was a correspondence also with a cheque the case of the opposite party that the cheque infact was received by post cannot be sustained. When the evidence of P.W. 1 and P.W. 3 appreciated against the said backdrop, the evidence of those witnesses attains more probability and, therefore, is acceptable. Then the District Forum accepted the evidence of P.W. 1 and P.W. 3 and made impugned direction. That cannot be said to be in any way wrong. We see no merit in the appeal, appeal fails and the same is dismissed. Appeal dismissed.