(2001) 02 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

BRANCH MANAGER, LIFE INSURANCE CORPORATION OF INDIA — APPELLANT

Vs

Maya Devi — RESPONDENT

Date of Decision : 13-02-2001

Acts Referred:

Citation : 2001 2 CPJ 237

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed with costs

Judgement

1. THIS is an appeal against the judgment and order dated 2.3.1994 passed by District Consumer Forum, Aligarh in Complaint Case No. 621/92.

2. THE facts of the case stated in brief are that the complainant was a nominee of the insurance policy of her husband. She preferred the case before the Insurance Company for claim on account of death of her husband. According to her the accident benefits have not been paid to the complainant on account of the fact that the murder of the husband was done by some unknown persons. The opposite party, Insurance Company in its written version has alleged that the complainant''s husband died and she is not entitled to get the accidental benefit as he did not die in accident but died in a riot.

Both the parties filed-evidence before the learned District Forum and the learned District Forum after hearing the learned Counsels and perusing the records, came to the conclusion that the accidental benefits have to be given by the opposite party to the complainant. This judgment was a majority judgment.

3. AGGRIEVED against this order, the appellant, Life Insurance Corporation of India has come in appeal and has challenged the correctness of the order passed by learned District Consumer Forum. The controversy revolves around the interpretation of the policy. We have heard the learned Counsels for the parties. Learned Counsel for the appellant has argued that the policy does not cover the risk of riot. This fact is not denied by the opposite party/complainant. In para 4

of the complaint, it has been mentioned that when the deceased was coming back from his shop at about 7.30 p.m. after locking the shop and was near the Aata Chakki of Maszid some unsocial elements assaulted the deceased by means of knives and injured him seriously. He died thereafter. In the written version, it has been alleged by the opposite party that if the death of any person occurs due to riot then such death does not fall within the preview of the accident and the policy holder or nominee or legal heirs are not entitled to double accident benefit. It has further been mentioned in para 13 that the complainant gave information to the Insurance Company that in a riot which occurred on 16.11.1990 the deceased died. This information was conveyed by letter dated 2.12.1990.

4. IN the grounds of appeal in para-3, it has been mentioned that a First INformation Report was also lodged by the complainant on 16.11.1990 in which the Surendra Kumar son of the complainant stated that he and his father and Munim Devendra Kumar were going after closing the shop at about 7.15 p.m. When they reached near the Aata Chakki of Babu Khan, 6/7 muslims who were standing there with knives and Churies assaulted his father and injured him seriously. Thus, these allegations go to show that 6/7 persons attacked the deceased. The fact that there was a communal riot has been alleged to have been mentioned in letter dated 2.12.1990 which was given to the INsurance Company but before that the complainant has lodged an F.I.R. in which there is no mention of communal riot. The INsurance Company has not been able to prove that any communal riot took place on that date when the deceased died. If by misconception the complainant had given in writing to the INsurance Company about the communal riot then it will have no effect on the merits of the case because there is no evidence on record to show that any communal riot took place on that date. Moreover, a perusal of the contents of F.I.R. as reproduced in para-3 of the grounds of appeal clearly goes to show that there was no communal riot and it was merely incident in which 6/7 persons attacked the deceased in which he was seriously injured and later on died. The contents of letter dated 2.12.1990 the copy of which is on record will not affect the merits of the case. The learned District Consumer Forum in its judgment has considered the various aspects of the case including the FIR and has come to the conclusion that Insurance Company is liable to pay the accidental benefits to the complainant. It is, therefore, apparent on the basis of evidence on record that there were no riot and death of the deceased did not take place in the riot. The judgment and order of the learned District Forum are perfectly correct and requires no interference. The appeal is liable to be dismissed. ORDER

5. THE appeal is dismissed with cost of Rs. 2,000/-. THE judgment and order of the learned District Forum are confirmed. Let compliance of this order be made within a period of two months. Let copy of this order be made available to the parties as per rules. Appeal dismissed with costs.

