

(2004) 11 NCDRC CK 0086

In the National Consumer Disputes Redressal Commission

CENTRAL BANK OF INDIA

APPELLANT

Vs

HEERA SONI

RESPONDENT

Date of Decision : 04-11-2004

Acts Referred:

Citation : 2004 3 CPR 165 : 2005 1 CLT 376 : 2005 3 CPJ 27

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Final Decision : Revision Petition disposed of

Judgement

1. -HEARD the learned Counsel for the parties.

2. IN this case, a Group INSurance Master Policy No. GSLI/601073 was issued in favour of employees of the Central Bank of INDia, Regional Office, Chhindwara (MP) on 20.11.1990. It is claimed by the INSurance Company that Nand Kishore Soni, an employee of the Central Bank expired. His legal heir pressed the claim for Rs. 1,20,000/-. That claim was not settled despite notice to the LIC as well as to the Central Bank of INDia. The legal heir of the Nand Kishore filed a complaint. The LIC contested the matter amongst other grounds on the ground that since the Central Bank of India has not paid the premium, the policy lapsed and, as such, the LIC was not liable to pay the amount. The Central Bank took the plea that they were not charging any fee from the employee and the claim regarding payment payable after the death of an employee was not maintainable.

The District Forum after hearing the matter directed the Insurance Company to pay the amount of the insurance policy in terms of Master Policy No. GSLI/601073 along with interest thereon at the rate of 12% from 17.2.1999 till the date of payment. Defendant Nos. 1 and 2 were supposed to pay Rs. 1,000/- to the applicant as cost of the suit.

3. LIC filed an appeal and the State Commission took the view that the policy had lapsed and LIC was not liable to pay any amount since the deficiency was found on the part of the Central Bank. They were directed to pay the amount of Rs. 1,20,000/- with interest @ 6% from the date of filing of the complaint i.e.,

from 12.1.2000 along with cost of Rs. 1,000/- within a period of two months from the date of receipt of the order. The Central Bank has come up in revision challenging the order of the learned District Forum. Having heard the parties Counsel, a short question arises in this matter as to whether policy could have been said to have been lapsed, to hold that the LIC is not liable. In this regard, it would be appropriate to refer to the terms and conditions of the policy in regard to liability and payment of premium.

4. THERE is no dispute about one aspect that Nand Kishore, the deceased, employee of the Central Bank was eligible to get benefits on the date of commencement of the said policy. It is not the case that he was permitted to withdraw or retired. As such, he was eligible. It would be useful to reproduce provisions of Clauses 2 and 4 of Part II of the Master Group Insurance Policy. They read as under: 2. The grantees shall pay the premiums in respect of all the members in one lump sum. 4. If the premium is not paid in respect of all members for a particular month or if the premium is not paid on the due date, the grantees shall be deemed to have discontinued payment of premium in respect of this policy as a whole and the Corporation Reserves the right to terminate the policy forthwith. The grantees shall not, thereafter, be entitled to resume payment except with the consent of the Corporation and on such terms and conditions as the Corporation may prescribe in this regard. As regards the payment of premium, in terms of Clause 2 of Part II of the policy, the grantees (the Central Bank) were supposed to pay the premium in respect of all members in one lumpsum. Clause 4 of the policy provides for different kind of beneficial insurance cover in respect of members of a Group Insurance Policy like the present one for it does not say in so many words that if the premium is not paid in respect of all members for a particular month or if the premium is not paid on the due date by the Bank like the grantees though they should be deemed to have discontinued payment of premium in the policy as a whole, yet it would not lead to automatic lapse of the policy. This is one part, which appears to be slightly in favour of LIC. But, this is subject to another clause, which reads, "The Corporation reserves the right to terminate the policy forthwith". The grantees shall not thereafter, i.e., after termination of policy, be entitled to terminate the policy forthwith. The grantees shall not thereafter, be entitled to resume payment except with the consent of the Corporation and on such terms and conditions as the Corporation may prescribe in this regard. If the right of the Corporation to terminate the policy was kept in reserve and LIC did not exercise that right, it would only mean that LIC was interested in continuing that insurance cover for the beneficiaries of the policies say member of Group Insurance Policy of Grantees Bank and the grantees i.e., the Central Bank shall be entitled to make payment of the unpaid premium on such terms and conditions as may be prescribed by the LIC. If contributions are paid by the employees themselves in full and the employer just acts only as a coordinator and monthly contributions from the salaries of the employees and are required to be remitted to LIC every month, failure of the Coordinator would not and ought not absolve the Life

Insurance Corporation of its responsibility. It is not a policy of an individual. It would affect, hundreds of employees for none of their faults. This appears to be the reason to reserve the right to terminate the policy and not to automatically terminate the policy.

5. MR. Gupta, learned Counsel for the petitioner submits that the policy is still continuing till today. We will have to appreciate this provision in a proper perspective keeping in view the background and formation of LIC on one hand and in the light of the fact that the Clause 4 is different from other kinds of insurance policies and the LIC is a Public Sector Undertaking of a Social Welfare State as is mentioned in the Preamble of our Constitution. Besides these policies were started with two purposes, one to provide insurance cover to the employees as labour welfare measure and another with a view to fulfil the larger social objective in terms of nationalisation of life insurance business. If we appreciate this clause of the policy in this background, this policy should not be read otherwise except that the policy was not terminated and it would not lapse as any other life policy of an individual lapse automatically in case of non-payment of insurance premium within the prescribed time. We have not been shown any provisions indicating automatic expiry of policy for non-payment except the reserved right to terminate the policy. And termination of the policy has not taken place in this case. This further supports the views, which are taken in this matter.

6. IN DESU v. Basanti Devi, III (1999) CPJ 15 (SC)=VIII (1999) SLT 279=1999 (8) SCC 229, the Hon"ble Supreme Court in relation to a similar kind of Group Insurance Scheme under the name of salary saving scheme, observed in para 11 about the relationship between the DESU and LIC in following words: "DESU is certainly not an insurance agent within the meaning of the aforesaid Insurance Act and the Regulations but DESU is certainly an agent as defined in Section 182 of the Contract Act. The mode of collection of premium has been indicated in the scheme itself and the employer has been assigned the role of collecting premium and remitting the same to LIC. As far as the employee as such is consumer, the employer will be an agent of LIC. It is a matter of common knowledge that Insurance Companies employ agents. When there is no insurance agent as defined in the Regulations and the Insurance Act. The general principles of the law of agency as contained in the Contract Act are to be applied."

The Hon"ble Supreme Court further observed that the authority of DESU to collect premium on behalf of LIC was implied. IN any case, DESU had ostensible authority to collect premium and so far the employee was concerned DESU was an agent of LIC to collect premium on its behalf. Accordingly, we hold that Central Bank of India was acting as an agent having implied authority of the LIC for collecting the insurance premium from the employees. The moment the amount was deducted from the salary of the employees by the Central Bank it would be deemed to have been paid to the Life Insurance Corporation. Failure on the part of the agent having an implied authority to receive premium on receipt

by deduction from the salary coupled with failure to deposit the same with LIC could not lead to lapse of the policy by any stretch of imagination.

It may be mentioned that in DESU v. Basanti Devi (supra), ultimately, the Hon"ble Supreme Court directed LIC to pay to Basanti Devi insurance amount of Rs. 50,000/- with interest at the rate of 15% p.a. from 17.12.1992 p.a. thus, substituting the LIC for DESU as was ordered by the State Commission.

7. IN the aforesaid circumstances, we find that the order of the learned State Commission cannot be sustained and it requires modification. Following the judgment of the Supreme Court in DESU v. Basanti Devi and Another (supra), we held LIC liable to pay the amount of policy of Rs. 1,20,000/- to such beneficiaries and consequently we direct the LIC to pay the aforesaid amount along with interest @ 9% p.a. from 1.9.1997 (keeping some margine of time to settle the claim of the deceased) till payment. The amount shall be paid by LIC within a period of six weeks. IN case of failure by the LIC to pay the amount as said hereinabove, LIC shall pay the above amount along with interest @ 12% p.a. The revision petition is disposed of accordingly. R.P. disposed of.