
(2014) 09 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

Chairman Sahara India

APPELLANT

Vs

CHETAN PRAKASH

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Citation : 2014 0 NCDRC 646 : 2014 4 CPJ 634

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : NEHA GUPTA , T.HAZRA , RITESH KHARE

Judgement

1. THIS revision petition has been filed by the petitioners against the order dated 30.06.2008 passed by the Rajasthan State Consumer Disputes Redressal Commission, Jaipur (in short, "the State Commission ") in Appeal No. 1841/2007 - Chetan Prakash Vs. Chairman, Sahara India Pariwar Compound Office & Anr. by which, while allowing appeal, order of District Forum dismissing complaint was set aside.

2. BRIEF facts of the case are that complainant/respondent is legal representative of late Smt. Amar Bai Meena, who obtained bond of Rs.3,000/- for the period of ten years in her life time on 22.10.1998 from OP/petitioner. As per bond, if applicant dies between the age of 16 -60 years or after 12 months of purchase of bonds, OP shall give equal amount of bond per month for the period of 10 years. Amar Bai Meena died on 13.11.2003. Complainant submitted claim to OP which was repudiated by OP. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP resisted complaint and submitted that as bond holder died after attaining age of 60 years, no amount was payable and prayed for dismissal of complaint. Learned District Forum after hearing both the parties dismissed complaint. Complainant filed appeal and learned State Commission vide impugned order allowed complaint and directed OP to pay Rs.3,000/- per month from 13.11.2003 to next 10 years with Rs.1,000/- as cost against which, this revision petition has been filed.

3. HEARD learned Counsel for the parties and perused record. Learned Counsel for the petitioner submitted that as deceased died after attaining age of 60

years, petitioner rightly repudiated claim and learned District Forum rightly dismissed complaint; even then, learned State Commission committed error in allowing appeal; hence, revision petition be allowed and impugned order be set aside. On the other hand, learned Counsel for the respondent submitted that as deceased was illiterate, order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

4. IT is not disputed that deceased purchased bond of Rs.3,000/- from OP on 22.10.1998 in which she stated her age 55 years. It is also not disputed that bond holder died on 13.11.2003 meaning thereby, after 5 years of the purchase of bond.

5. THE core question to be decided is whether bond holder Amar Bai Meena attained age of 60 years at the time of death or not? Admittedly, in the application form for purchase of bond, age of Amar Bai Meena has been shown as 55 years and no date of birth has been given. It is also not disputed that Amar Bai Meena was illiterate lady, who put her thumb impression on the application form. Complainant was to prove that at the time of purchase of bond, Amar Bai Meena was less than 55 years. Complainant has not adduced any evidence to this effect. Learned State Commission at various places mentioned in the impugned order that purchaser of bond told her age 55 years approximately. I do not find the word approximately in the application form and in such circumstances; it cannot be inferred that at the time of purchase of bond, Amar Bai Meena was below 55 years of age. Learned State Commission also observed in its order that applicants of rural areas can get written their age 1 -2 months less or more. I agree with this observation, but to get benefit under the bond it was obligatory on the part of complainant to prove that Amar Bai Meena bond holder was less than 60 years at the time of death. Learned Counsel for the respondent submitted that OP should have proved that deceased was above 60 years at the time of death. This argument is devoid of force because complainant was under an obligation to prove that Amar Bai Meena was below 60 years at the time of death to get benefit of bond. Had complainant led some evidence to this effect, then, burden would have shifted on OP to prove that bond holder was above 60 years at the time of death. As none of the parties have led any evidence to this effect, it can very well be presumed that bond holder was 55 years at the time of purchase of bond and as she died after more than 5 years of purchase of bond, she crossed age of 60 years and as per terms and conditions of bond, OP has not committed any deficiency in repudiating claim. Learned District Forum rightly dismissed complaint, but learned State Commission committed error in allowing appeal and revision petition is to be allowed.

6. CONSEQUENT LY , revision petition filed by the petitioner is allowed and impugned order dated 30.6.2008 passed by learned State Commission in Appeal No. 1814/2007 - Chetan Prakash Vs. Chairman, Sahara India Pariwar Compound Complex & Anr. is set aside and order of District Forum dismissing complaint is affirmed with no order as to costs.