(2005) 10 NCDRC CK 0016

In the National Consumer Disputes Redressal Commission

Chief Postmaster — APPELLANT

Vs

RAJAMMAL — RESPONDENT

Date of Decision : 10-10-2005

Acts Referred:

Citation : 2006 2 CPR 213 : 2006 4 CPJ 125

Hon'ble Judges : K.SAMPATH J.

Judgement

1. THE opposite parties in C.O.P. No. 93/99 on the file of the District Forum, Cuddalore are the appellants in the appeal.

2. THE case of the first complainant was as follows: She is the mother of one Arunachalam (since deceased). He had taken an insurance policy for Rs. 50,000 and the first complainant was the nominee. The premium had been paid and the policy was subsisting on the date of death of Arunachalam on 12.2.1998. She immediately informed the appellants/opposite parties and made a claim. The claim application was forwarded by the Sub -Divisional Inspector (Postal), Sankarapuram to the third opposite party on 30.5.1998. Vide letter dated 9.11.1998, the third appellant requested the first complainant for particulars of treatment given to Arunachalam for the preceding three years and the cause of his death. The 1st complainant immediately sent a copy of the medical certificate marked as Ex. A 19 to the appellants. Between April, 1998 and January, 1999, several reminders, Exs. A11, A14, A16 and A21 were sent to the appellants to expeditiously process the claim. Under the original of Ex. A23, dated 24.2.1999, they sent a legal notice which was followed by a letter dated 30.4.1999, copy of which has been marked as Ex. A26 calling upon the appellants to settle the claim. The appellants repudiated the claim by letter, Ex. A16, dated 23.6.1999 on the ground that the deceased had committed suicide. The District Forum framed a point for determination: whether there was deficiency in service on the part of the opposite parties. On the side of the complainants, Exs. A1 to A34 were marked and on the side of the appellants, Exs. B1 to B20 were marked.

3. ON the materials placed, the District Forum found that appellants/opposite

parties had failed to prove that the first complainants son had committed suicide as could be seen from Ex. A19, a certificate issued by the Doctor that there was no withholding of information by the first complainants son from the opposite parties about his medical history that the third party affidavit, Ex. B20, relied on by the appellants, had been obtained by the appellants after the complaint had been filed and the deponent was a postal employee and the contents are not true that the repudiation by the appellants was wrong and that the appellants were liable to pay the claim amount of Rs. 50,000 together with interest @ 18% from the date of repudiation till date of payment, a sum of Rs. 2,000 towards compensation and Rs. 1,000 towards cost of the complaint.

4. THE points arising for consideration in the appeal are: (1) whether the appellants/opposite parties have established that the first complainants son had committed suicide? and (2) whether the first complainants son had withheld information regarding his medical history from the appellants/opposite parties? The parties have filed written arguments and also submitted oral arguments. The learned Counsel for the appellants submitted that the claim had been sent to the opposite parties by Sub -Divisional Inspector (Postal), Sankarapuram vide his letter Ex. B36 dated 30.5.1998. The cause of death in Ex. B6 is stated to be heart attack. However, Ex. B5 which is the covering letter states that when enquired locally, it was told that the proponent had committed suicide by consuming poison. The first appellant sent a letter under the original of Ex. B10 on 9. 11. 1998 to the first complainant asking the following documents for taking further action in the matter. 1. Medical certificate issued by the doctor (duly indicating the cause of death), who last attended on the late insured immediately prior to his death. 2. Particulars of doctors consulted with nature of illness during the preceding three years prior to taking of policy (i.e. from 24.3.1994 to 23.3.1997)

5. THE first complainant sent a representation in November, 1998 with a medical certificate obtained from Dr. K. Ramasamy of Tirukoilur which disclosed that the cause of death was chronic duodenal ulcer perforation. But the letter, however, did not give the particulars of the doctor who was consulted for preceding three years. The learned Counsel submitted that as per the report of the Sub - Divisional Inspector (Postal), Sankarapuram dated 5.1.1999, Ex. B13, the insured had died consuming poison that he was taken to Dr. Govindaraj after his death and when it was a case of death on the ground unnatural causes, the appellants had rightly repudiated the claim; the insured having died by committing suicide within two years of acceptance of the policy, the first complainant would not be entitled to any amount under the policy as nominee and that the District Forum was clearly in error in granting relief to the first complainant.

6. ON the other hand, the learned Counsel for the 1st respondent/1st complainant submitted that there was an inordinate delay in processing the claim that the Supreme Court and the National Commission have deprecated the

practice of the Insurance Company for unnecessary delay in processing claims that the complainants had sent several reminders but the appellants failed to process the claim within a reasonable period and the Supreme Court has held that the delay in processing the claim would by itself amount to deficiency in service. Though the first complainant was under the impression that her son died due to a heart ailment, Ex. A19 shows that the cause of death was duodenal ulcer perforation. The first complainant and her family being unfamiliar with medical terminology could not, therefore, mention this in the claim application. Be that as it may, it is clearly established that the deceased did not commit suicide as alleged by the opposite parties. Further, according to the appellants, one Dr. Govindaraj treated the deceased. But they did not take steps to examine the said Dr. Govindaraj nor did they examine Dr. Ramasamy who gave Ex. A19. They were clearly wrong in relying upon Ex. B20, the affidavit of their employee, who had heard rumours in the village that the deceased had committed suicide. The learned Counsel also relied on the following decisions: (1) Shriram Transport Finance Co. Ltd. v. United India Insurance Co. Ltd., III (2002) CPJ 149 (NC)., where the National Commission has held that the Insurance Company was deficient in rendering service by taking a year and four months to repudiate the claim. The National Commission directed the Insurance Company to pay compensation to the complainant. In Life Insurance Corporation of India v. Shanta @ Radhika Lagma Dolli, III (2002) CPJ 295 (NC)., it has been held that where there is no concrete hard evidence to show that it was a case of suicide, the Insurance Company is liable to settle the claim. Again in United India Insurance Company Ltd. v. Surindar Kaur, I (2001) CPJ 194 (Punj)., the Punjab State Commission held that in the absence of any reliable evidence, a mere assertion that the insured committed suicide under the influence of liquor is not sufficient to repudiate the claim. The State Commission further held that the repudiation of the claim was not on justifiable grounds and this amounted to deficiency in service on the part of the Insurance Company. From what is stated above, we are able to see that the appellants had attempted to repudiate the claim on mere suspicion. Their definite stand is that the deceased committed suicide. In this, they rely on the affidavit of one of its employees. The employee was not examined. According to the appellants, the deceased was taken to Dr. Govindaraj and Dr. Govindaraj treated him. Dr. Govindaraj has not been examined. So also is the case with Dr. Ramasamy. As rightly pointed out by the learned Counsel for the respondent -1/1st complainant whether it was a case of heart attack or duodenal ulcer perforation, it was not a case of suicide and in any event, the case of suicide has not been established by the appellants. It was highly improper on the part of the appellants to have taken a stand to repudiate the claim on the basis of rumours making the rounds in the village. Indeed, the appellants had not acted promptly on the claim made by the first complainant. They had taken their own time to repudiate it and even that on frivolous unsubstantiated ground. It was their bounden duty to have established that it was a case of suicide. They have failed miserably to substantiate the same. They have also not established that the deceased had suppressed material information

at the time he gave the proposal for insurance. The defence of the appellants on both the grounds has been rightly rejected by the District Forum. We do not find any merit in the appeal. The appeal is liable to be dismissed and we accordingly do so.

7. IN the result, the appeal is dismissed confirming the order passed by the lower Forum. There will be no order as to costs in the appeal. Appeal dismissed. _

