(2001) 09 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

DHANALAKSHMI RAJ KUMAR — APPELLANT

Vs

Zonal Manager, LIC of India — RESPONDENT

Date of Decision : 14-09-2001

Acts Referred:

Citation : 2002 2 CPJ 505 : 2003 1 CLT 18

Hon'ble Judges : L.Manoharan , R.Vijayakrishnan , K.P.Sumathy J.

Final Decision : Complaint allowed with costs

Judgement

1. THIS O.P. was filed before this Commission on return of the same by the Consumer Disputes Redressal Forum, Palakkad as the claim exceeded the pecuniary jurisdiction of the Forum. Complainant''s case in brief is as follows. Complainant''s husband, late Mr. Rajkumar Nair had taken an insurance policy (Ext. R2) dated 28.10.1991 for an amount of Rs. 5,00,000/- since the premia was not remitted the policy was in a lapsed condition with effect from September, 1994. When the business of the insured flourished he got the policy revived on 30.9.1996; the insured expired on 10.1.1997 at the PVSM Hospital, Kaloor. Complainant, the nominee submitted Ext. R10 claim form along with supporting documents. Inspite of repeated reminders the claim was not settled. Later by Ext. R11 communication the opposite parties repudiated the claim stating that the deceased had jaundice in April, 1994 and July, 1996; and he suffered from cirrhosis of liver and was taking medicines from July, 1996. These facts were not diclosed in his personal statement. The complainant alleged that the repudiation is not valid; she alleged there is deficiency in service and wanted direction to pay the insured amount along with compensation.

2. IN the version by the opposite party they contended, the complainant is not a consumer, that there is no deficiency of service, but admitted that late Sri Rajkumar Nair had taken Ext. R2 policy for an amount of Rs. 5,00,000/- risk commencing from 28.10.1991, that due to non-payment of premium from 10/94 onwards the same remained in a lapsed condition. He had also taken two other policies the said Raj Kumar Nair wanted revival of those policies also. Bona fidely

relying on the representation in the personal statement, the policy was revived on 13.9.1996. Then the opposite party was informed as to the death of Sri Raj Kumar Nair on 10.1.1997; as the death took place within a short period of revival, investigation was made and at the investigation it was revealed that the deceased was admitted in the Venketesa Hospital, Palakkad on 14.11.1996; the medical records from the said hospital revealed he was taking medicines for cirrhosis of liver from July, 1996 had hepatosoplinomegalin and had also attack of jaundice in April, 1994. The insured was discharged from the Venketesa Hospital on 27.11.1996 and was referred to PVS Memorial Hospital, Ernakulam. The insured had jaundice in April, 1994 and was a known case of cirrhosis of liver for which he was taking medicines from July, 1996. He fraudulently suppressed the said facts when he applied for revival of the policy the revival being a new contract on learning the said suppression the opposite parties are entitled to avoid the contract. The assured had also failed to inform the opposite parties as expressly undertaken by him in his personal statement of health about the change on deterioration of the health between the date of the personal statement and the actual date of the revival of the policy. Therefore, they maintained that the repudiation is valid, and wanted dismissal of the complaint. On the side of the complainant, complainant was examined as P.W. 1 and produced Exts. P1 to P5. On the side of the opposite parties Exts. R1 to R12 were produced, Ext. B3 was incorporated from A. 536/2000 and A. 537/2000 between the same parties. Ext. X1 also was marked. On the side of the opposite parties R.Ws. 1 to 5 were examined. The points that would arise for consideration are : (1) Whether the complaint is maintainable ? (2) Whether deficiency of service alleged is true ? (3) Reliefs and costs ?

Point No. 1 :

In the version a contention is raised that the complainant is not a consumer. Ext. R2 is the policy. The same mentions the complainant as the nominee; complainant thus is the beneficiary of the service availed by the deceased Sri Raj Kumar Nair, the insured; and therefore, herself is consumer under Section 2(1)(d)(ii) of the Consumer Protection Act, 1986. Then it has to be found that the complaint is maintainable. Point found in favour of the complainant. Point No. 2 :

3. THAT the deceased Raj Kumar Nair took Ext. R2 policy for Rs. 5,00,000/- and the risk commenced from 28.10.1991 are not in dispute. Since on account of the failure to remit the premium in time the policy was in a lapsed condition from October, 1994. The insured Raj Kumar Nair sought revival of the policy for which Ext. R3 application dated 12.7.1996 was made he paid the amount, suspense memorandum is Ext. R8 dated 29.9.1996 and the same was credited by Ext. R9. In para-12 of the version though the opposite parties contended that the revival was on 13.9.1996, R.W. 3, the manager of the opposite party admitted in his evidence that on 13.9.1996 decision was taken to revive the policy and the revival was on 30.9.1996. Thus the policy was revived on 30.9.1996. The case of the opposite parties is that the revival was only on the basis of the personal

statement made by the deceased in which he suppressed material facts and that was reason for the repudiation of the claim Ext. R11. As per the case of the opposite parties the insured suffered from cirrhosis of liver and was taking medicines since July, 1996 and had also jaundice in 1994 and hepatosoplinomegalin in 1996. Personal statement by the deceased did not disclose the aforesaid facts and, therefore, there was fraudulent suppression of material facts on account of which the contract of insurance has become void. The aforesaid contention that the deceased had the said disease is denied by the complainant as P.W. 1, as well as in the complaint in support of their case as to suppression as is stated in Ext. R11. Opposite parties relied on the evidence of R.W. 1 and Ext. R5. According to the opposite parties since the death of the complainant was within a short period of the revival of the policy R.W. 1 investigated the claim and filed Exts. R6 along with Ext. R6(a) which states that on learning that the insured had undergone treatment from 14.11.1996 to 26.11.1996 in the Venketesa Hospital, Palakkad; he reached the hospital, met R.W. 2 the doctor who told him that the insured was an inpatient from 14.11.1996 to 27.11.1996 and was suffering from cirrhosis of liver and that he must have been having the problem for some time prior to his admission in the hospital. When enquired of the reason according to R.W. 1, R.W. 2 revealed that cirrhosis of liver could occur due to excess consumption of alcohol and said that the deceased appeared to be an alcholic but insisted, he did not want to be quoted. When he wanted copy of the case sheet with reluctance he allowed him to take photocopy of the original case sheet on condition that he would not reveal the source of the information to the claimant or her family. He proceeds to swear, he took photocopy and compared the same with the original and returned the case sheet to R.W. 2. He stated, Ext. R5 is the said photocopy of the case sheet. Ext. R5 along with Ext. R11 repudiation would disclose the repudiation is based on Ext. R5. Thus Ext. R5 becomes the crucial document as to this aspect of the case; Ext. R5 is not admitted by the complainant. The copy of the certificate of treatment issued by R.W. 2 the doctor of Venketesa Hospital is Ext. R7. It shows that Raj Kumar Nair was admitted in the hospital on 14.11.1996 and the diagnosis arrived at was cirrhosis of liver he was under treatment there till 27.11.1996. Then, diagonise of cirrhosis was after 14.11.1996 whereas the revival was on 30.9.1996. That means Ext. R7 cannot support a case that the insured had the said disease at revival. In support of case of the opposite parties that he had the said disease, they rely on Ext. R5 for it is Ext. R5 which states that the insured had cirrhosis of liver and has taking medicine from July, 1996, had jaundice in April, 1994 and hepatosoplinomegalin in July, 1996. Ext. R5 is not proved to be the true copy of the original case sheet, the opposite party may not be able to sustain their case of suppression of pre-existing disease.

4. IN appreciating as to whether Ext. R5 can be accepted it is necessary incidentally to see the evidence of R.W. 2 as well as R.W. 4. R.W. 1 claimed that the original case sheet was handed over to him by R.W. 2. R.W. 2 was summoned to produce one case sheet. He did not produce the same, he stated

that some bundle of case sheets of that month was missing. Ext. R5 was shown to him, he said that Raj Kumar Nair was treated in his hospital but he cannot say that for what disease he has treated. He further admitted that some representative of the LIC came to his office and wanted a certificate which he gave to him whose photocopy is Ext. R7. He said Ext. R5 is a photocopy but is not attested by him and the same did not have the seal of hospital; therefore, he cannot say anything about it he added, the maintenance of case sheet is under his administrative control. He said that he made enquiry about the same and gave evidence in two other cases before the District Forum, Palakkad. He said, Dr. Bharath Gopal treated Raj Kumar Nair. What is to be noted is, though the witness was sought to be declared hostile and was permitted to be cross-examined by the learned Counsel for the opposite parties, the evidence of R.W. 2 does not help to find Ext. R5 is the true copy of the original. Then Dr. Bharath Gopal, R.W. 4 swears in his cross-examination himself is known B. Gopal that is Bharat Gopal; that he is working in the Venketesa Hospital and is the consulting physician and a medical specialist. He has sworn, he does not know as to how the case sheets are maintained, and that R.W. 2 is the proprietor of the Hospital, himself is working in the hospital for the last 10 years. He was shown Ext. R5 and was asked whether he has written anything in the original case sheet. He said that his handwriting is not anywhere in Ext. R5 and there is no signature of his in Ext. R5. Suggestion was made to the effect that, as per his instruction Ext. R5 was written by the RMO, he pleaded ignorance. What is to be noted is R.W. 4''s evidence also does not support the case of the opposite party that Ext. R5 is the true copy of the original. Learned Counsel for the opposite parties referred us to the decision in Pran Jivan Jaitha v. State of West Bengal & Ors., AIR 1974 Calcutta 210, which held, when original records have been lost it is open to a party to offer evidence of the contents, and such secondary evidence includes copies made from or compared with the original and also oral evidence as to the contents by some person who has seen it. Then reliance was made on the decision in AIR 1971 Madras 471, Muthu Venketarama Reddiar v. Vardaraja Kounder. It is held, under Section 61 of the Evidence Act, the contents of documents may be proved either by primary or by secondary evidence. When the primary evidence is not available proof by secondary evidence is permissible. But this decision also holds, before secondary evidence is submitted it must be proved that the original is in the possession or power of the person against whom it is sought to be proved and such person failed to produce the same. Next decision relied on by the learned Counsel is Sanatan Mohanty & Ors. v. Baidhar Rout & Ors., AIR 1986 Orissa 66, wherein it is held if the original is lost, destroyed or detained by opponent or third person who does not produce it after notice or is physically irremovable, secondary evidence is permissible. Of course from the evidence of R.W. 2 since it is revealed that original case sheet concerning the insured is not available, secondary evidence can be admitted. But secondary evidence must be proved to be genuine copy of the original. Now in this context a perusal of Ext. R5 is worthwhile. The first page of the case sheet does not mention the date of admission or date of discharge. The inpatient

number also is not mentioned. There are overwritings, there is neither attestation by the custodian nor is there the seal of the hospital. Perusak of Ext. R5 is not capable of inspiring confidence to be acted upon. R.W. 2 and R.W. 4 do not support that Ext. R5 is the true copy of the original. There is no material to show that the missing of case records for the month mentioned by R.W. 2 was at the instance of the complainant. It of course mentions, that is a case of cirrhosis of liver and was taking medicine from July, 1996. It is mentioned that he had jaundice in April, 1994 and tests were conducted. Learned Counsel for the opposite parties also sought to maintain that the complainant withheld documents and, therefore, adverse inference has to be drawn. He made reliance on the decision in AIR 1964 SC 136, A. Raghavamma & Anr. v. A. Chechamma & Anr., wherein the Supreme Court held that when it is shown that the documents are admitted to have been in existence are not placed before Court by party concerned an adverse inference can be drawn against such. Reference was also made on the decision of the Supreme Court in Khushalbhai Mahijibhai Patel v. A. Firm of Mohamadhussain Rahimbux, in AIR 1981 Supreme Court 977, there also the same principle is reiterated. Reliance was made on the decision in AIR 1985 Calcutta 200, in Himjith Construction v. Tarun Shankar, wherein also it is held that non-production of documents by the party to suit which is in his possession would generate adverse inference against such party. Complainant''s persistent case is that she had produced whatever medical records with her along with the claim. Reliance was made in support of that case on Ext. P3 in which she said that she had already sent records. Ext. P3 denied that the insured was suffering from jaundice as alleged, she then sent Ext. P4 requesting to expedite the matter; that was on 6.8.1997. She asserted in Ext. P5 the available medical records were submitted to the opposite parties and herself is not in possession of any other medical record and so she requested that the claim may be expedited. Then on 20.1.1998 she sent Ext. P7 stating that she has not got any amount though had submitted the claim on 26.2.1997 in which she said that the insured Sri Raj Kumar Nair expired on 10.1.1997 leaving herself and two minor girls, and herself is the nominee. It is pointed out by the learned Counsel, thereafter the opposite parties filed I.A. 993/2000 for discovery to which she filed an affidavit wherein she reiterated, whatever records she had in her possession was submitted to the opposite parties. R.W. 3 admitted that no reply was sent to the said communications. But it is sought to be maintained by the learned Counsel for the opposite parties that though she claimed in Ext. P3, the documents were submitted on 26.2.1996 itself, Ext. R10 the claim statement is seen to have been countersigned on 10.3.1997. According to the learned Counsel the statements in the above communications that the records has already been produced cannot be accepted. But there were later communications asserting the fact of handing over the documents. In para 4 of the counter to I.A. 993/2000 the complainant clarified that the medical records were produced along with the claim form. Ext. R11 repudiation does not state that the claimant failed to furnish the documents required to be produced by her. Having regard to the aforesaid aspects it cannot be said adverse inference can be drawn against the complainant for the alleged

failure to produce documents. Therefore, the repudiation on the basis of Ext. R5 cannot be upheld.

5. NOW the learned Counsel for the opposite parties sought to support the repudiation on the ground that there is violation by the insured in not complying with the declaration filed by him at the time when he applied for revival of the policy. Ext. R3 as noted is the revival, it contains a declaration. The first part of the declaration is to the effect that the statements and answers made by him are true and complete and that he agrees and declares that the said statement and the declaration along with the proposal of insurance under the lapsed policy shall be the basis of contract of revival of the lapsed policy. And if any untrue averments be contained there in the contract shall be absolutely null and void. Therefore, the said part deals with the statements made by him for the revival as well as in the proposal for the insurance; if they are found to be not true then the contract would become void.

6. AS has already noted, the attempt to prove, the statements in the revival are not true or correct on the basis of Ext. R5 cannot be accepted. Then reliance was made in the first clause of the second part of the said declaration. It will be convenient to read the same : "And further declare that if between the date of this declaration and the date of revival of the policy (i) any change in my occupation or any adverse circumstances connected with my financial position or the general health of myself or that of any member of my family occurs or (ii).... I shall forthwith intimate the same to the Corporation in writing, to consider the term of revival of the policy". Now the focus of the argument by the learned Counsel for the opposite party is that there was adverse circumstance connected with general health of the insured between the proposal for the revival and the actual revival, and since the insured did not intimate the said change, by virtue of the said clause in Ext. R3, the contract of insurance has become invalid. Ext. R3 revival application was on 12.7.1996. AS has noted, the revival was on 30.9.1996; the case is, in between the two dates there was adverse circumstance connected with the general health of the insured and the insured did not intimate the same. In an endeavour to maintain the same reference was made on Ext. R4. Ext. R4 is the treatment certificate issued by the PVSM Hospital, Kaloor. Ext. R7 the hospital treatment certificate issued by the Venketesa Hospital, Palakkad would show that the deceased was admitted in the said hospital on 14.11.1996 and was discharged on 27.11.1996, he was admitted in the PVSM Hospital on the same date. In the said hospital while undergoing treatment he was discharged on 14.12.1996 and was re-admitted on 6.1.1997 and he expired on 10.1.1997. The point urged is, column N24 of Ext. R4 states at the time of admission the complainant had jaundice and the duration was for three months. The diagnosis later was cirrhosis of liver. AS has noted, he was admitted on 27.11.1996 three months before that would be 27.8.1996. Now Ext. R3 revival application was on 12.7.1996 and the revival on 30.9.1996 as per the entries in Ext. R4 it is urged, the deceased was having jaundice from 27.8.1996, that is after the application for revival and before the actual revival. Therefore,

according to the learned Counsel, by virtue of declaration in Ext. R3 the insured was bound to inform the same before the revival that he did not comply; consequently that would amount to violation of the condition resulting in the contract of insurance becoming void. Learned Counsel for the complainant maintained that the said entry since is not reconcilable with the other materials produced in this case, therefore, the same cannot be relied on in support of the argument of the learned Counsel for the opposite party. Reliance was made on Ext. R12 also the medical attendance certificate issued by the PVSM Hospital. There the cause of death is mentioned as cirrhosis of liver and cardiac arrest. The symptom of the illness is noted as jaundice and the duration is stated to be three months, the date of admission being 27.11.1996. It is urged, the same would corroborate what is stated in Ext. R3. It is urged by the learned Counsel for the opposite parties, so long as jaundice is a symptom of cirrhosis of liver the same is a material fact which should have been revealed as per the declaration. The said statement as to three months of duration is not reconcilable with the treatment record of the Venketesa Hospital, Ext. R7. As has noted, he was under treatment in Venketesa Hospital from 14.11.1996 to 27.11.1996 on which date he was admitted in the PVSM Hospital. There, in column No. 4 of Ext. R7 as to the nature of complaint at the time of admission it is stated "restless and violent behaviour" duration is stated to be of one day. In column No. 5 also the same is repeated; and is stated to have been reported by the wife, diagnosis was cirrhosis of liver. There is no mention of jaundice in Ext. R7; and the cause of cirrhosis of liver need not necessarily be jaundice. Then, entry in column No. 4 in Ext. R7 cannot be reconciled with the entry in column No. 4, of Ext. R4. Ext. R7 does not make mention of jaundice at the time of admission, during treatment or at discharge on 27.11.1996, diagnosis was cirrhosis of liver, and the condition at discharge was "improved". It is also pointed out that though in column No. 4 jaundice is mentioned having three months duration and column No. 5 states that the information was given by the wife of the patient, in column No. 7, it is pointed on behalf of the complainant, that answer given nor in the negative to the querry whether there was any other disease or illness which preceded or co-existed with the ailment at the time of his admission in the hospital. One important aspect to be noted is, the insured was discharged as per the Ext. R4 on 14.12.1996 and it is stated in colomn No. 9 as to his condition "healthy and conscious", then he was re-admitted on 6.1.1997 and he expired on 10.1.1997. What is urged by the learned Counsel for the opposite party is, the mention of "healthy and conscious" only meant that his condition was such that he could be discharged. This is more so, according to him, as he was directed to consultant on 30.11.1996. In this regard reliance was also made Ext. D3, there is an entry on 27.11.1996 at 3.15 p.m. Raj Kumar Nair was admitted, he was referred from Palakkad, complaint of altered sensorium, jaundice for four days and below that it is mentioned three months. The wording in the declaration also is of relevance in this connection. As has noted adverse circumstance concerning the general health of himself or the members of the family of insured had to be reported. His condition at the discharge from PVSM Hospital was "healthy". R.W. 5 should have

been asked as to the implication of the said condition.

Learned Counsel for the complainant sought to maintain that inasmuch as R.W. 3 did not dispute that he was examined by the panel of doctors at the time of revival they cannot now contend that there was an adverse health condition at the time or after the application for revival. But this argument cannot hold good because of the decision of High Court of Kerala in Sarojam v. LIC of India, 1986 ACJ 288. It is held therein even though medical officers had reported that the health condition is worthy to be insured it is open to the Insurance Company on the basis of the facts disclosed by evidence that the certificates do not disclose the true state of affairs known to the insured. But the question remains whether there was actually violation of the declaration as now projected. Learned Counsel for the complainant relying on the decision of the Supreme Court in AIR 1962 SC 814, Mitholal Nayak v. LIC of India, and the decision of the Kerala High Court in AIR 1991 Kerala 230, in LIC of India v. Sosamma Punnen, urged, since the policy is of 1991 and death of the insured was on 10.1.1997, beyond two years of the policy, as per Section 45 of the Insurance Act since two years period has to be calculated not from date of revival but from the date of the policy, the opposite party is not entitled to challenge the claim. The Supreme Court in the said decision held that whether the revival of a lapsed policy constitutes a new contract or not for other purposes, as per the wording of Section 45 of Insurance Act the period of two years has to be calculated from the date of the original policy. In para 8 of the said decision the Supreme Court lays down the three conditions specified for the operation of Section 45. In the decision in LIC of India v. Sosamma Punnen (supra) it is held that the policy cannot be called in question after the expiry of the two years from the original policy. On the other hand learned Counsel for the opposite parties relied on the decision of this Commission in Annamma Issac v. Senior Divisional Manager, 1995 (2) CPR 286, this decision is rendered by my predecessor after adverting to the decision in Sosamma Punnen''s case (supra) also. In this decision reference is made to the decision in AIR 1991 Kerala 230, as well as the decision of the Supreme Court in Mithoolal Nayak v. LIC of India (supra) with reference to revival and the effect of the same; it is held, in cases of revival of lapsed policy the insured would be free to repudiate the revival on grounds of misrepresentation or fraud or material facts by the insured when it comes to the knowledge of the insured. It is held in para 14 of the decision "however Section 45 of the Act cannot be applied in terms to ''representations and warranties'' made by the insurer for the purpose of reviving the policy and general principle of insurance law which requires utmost good faith would apply to such revival and the insurer would be free to repudiate on grounds of misrepresentation or fraud or non-disclosure of material facts the insured, when it comes to the knowledge of the insurer". This is the precedent of this Commission pronounced by my learned predecessor. But whether there is evidence as to suppression of material fact is a question of fact. As has noted whether he had underwent treatment for jaundice after he applied for revival and before the revival has already been adverted, the case of the

opposite party in this regard cannot be said to be proved. Adding to the above this particular aspect was never considered a worthy ground for repudiation of the claim even by the opposite parties, neither have they proper defence in their version as to the said aspect. It is pointed out by the learned Counsel that Ext. R11 repudiation does not contain such a ground for repudiation. Whether the said ground was either specifically or by necessary implication relied on by the insurer for repudiation of the claim is again a question of fact which has to be judged from the relevant document. In this case Ext. R11 is the repudiation which corresponds to Ext. P6, the original communication sent by the opposite party to the complainant. The same is dated 8.1.1998. Therein it is stated that the insured gave answers in the negative when was asked whether he ever suffered from any illness or disease requiring treatment for a week or more and he confirmed that himself was in sound health. It is stated therein that the insurer has indisputable evidence to show that the insured had suffered from cirrhosis of liver and had been taking medicine since July, 1996 and that he suffered from jaundice in April, 1994 and hepatosplenomegaly in July, 1996 which insured did not disclose in the said personal statement. Consequently they repudiated the claim. What is to be noted is, the repudiation concerns only the alleged withholding of material information in the personal statement. It does not mention of a failure to reveal adverse effect of his health condition between the application for revival and revival. This will lead to the inference that at the repudiation the insurer did not even think of making the aforesaid alleged breach of the declaration a ground for repudiation of the claim. R.W. 3, the manager of claims also does not mention such a ground for the repudiation. This could persuade an inference that even according to the insurer the said alleged breach was not worthy ground to be made the basis of repudiation. The grounds in Ext. R11 are those mentioned in Ext. R5. As has already seen Ext. R5 cannot be relied on. Adding to that it is urged by the learned Counsel for the complainant that there is also no specific case in the version that insured withheld the adverse condition of his health during the period between the application for revival and revival. But it is sought to be maintained by the learned Counsel for the opposite party relying on para 12 of the version that there is contention that the assured failed to inform the opposite parties about the change or deterioration of his general health between the date of the personal statement and the actual date of the revival of the policy. Of course the said para does not specifically mention that the deterioration of general health was because of jaundice during the said period; even treating the said plea is sufficient there is no explanation forthcoming as to why the repudiation does not contain such a ground. The grounds urged for the repudiation cannot be upheld. Consequently there is deficiency of service. Point found in favour of the complainant. Point No. 3 : In view of our findings 1 and 2 the repudiation of the claim by the opposite parties cannot be supported; the repudiation would amount to deficiency of service. Therefore, it is necessary to direct the opposite parties to settle the claim in accordance with law with due regard to what is stated in this order. The complainant is entitled to compensation for deficiency of service. Though the

complainant has claimed Rs. 20,000/- towards the same, we consider in the facts and circumstance of the case, it will be enough to award compensation of Rs. 5,000/- towards mental agony and the sufferings due to the repudiation. The opposite party shall settle the claim and pay the amount within three months of the receipt of the copy of this order failing which the amount shall bear interest at 12% till settlement and payment; in the facts and circumstances of the case the complainant shall be entitled to her costs which we fix at Rs. 3,000/-. Point found accordingly. In the result, the opposite parties are directed to settle the claim in accordance with law with due regard to what is stated in this order and pay the amount to the complainant within three months of the receipt of the copy of this order, failing which the amount will bear interest at 12% till settlement and payment. The complainant in addition is entitled to Rs. 5,000/- as compensation for deficiency in service. Complainant is entitled to her costs which we fix at Rs. 3,000/- (three thousand only). Complaint allowed with costs.

