(1998) 07 NCDRC CK 0068

In the National Consumer Disputes Redressal Commission

DIVISIONAL MANAGER, L.I.C. OF I NDIA — APPELLANT

Vs

PAPPAYEE — RESPONDENT

Date of Decision : 08-07-1998

Acts Referred:

Citation : 1998 3 CPJ 511

Hon'ble Judges : E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision : Appeal dismissed

Judgement

1. THE Life Insurance Corporation of India of which the 2 opposite parties are the officers against whom an award has been passed by the District Forum are the appellants. THE complainant''s husband Sengoda Gounder took an insurance policy on 16.3.1992 for a sum of Rs. 15,000/-. On 20.5.1993 Sengoda Gounder died. THE complainant made a claim with the opposite parties. But her claim was rejected to 6.4.1994 on the grounds that Sengoda Gounder was suffering from Tuberculosis of the past 5 years and he was taking treatment but in the proposal form the insured had not disclosed the same, and since the insured failed to disclose the material facts and suppressed the same in the proposal form the complainant cannot seek payment for any insurance amount. Alleging deficiency in service on the part of the opposite parties in repudiating the claim the complaint was filed.

2. THE opposite parties contended inter-alia that the investigation made by them subsequent to the death of the insured revealed that Sengoda Gounder was suffering from Tuberculosis and was taking treatment even before he gave the proposal. As he had not disclosed the material facts in the proposal form dated 28.2.1992 the Life Insurance Corporation was entitled to reject the claim of the complainant. The District Forum on consideration of the pleadings and the evidence came to the conclusion that the opposite parties had not proved that there was suppression of material facts by the insured at the time of proposal and therefore the repudiation of the claim was not proper and that amounted to deficiency in service. So holding it ordered the opposite party to pay to the

complainant a sum of Rs. 15,000/- under the policy with interest thereon @ 18% p.a. claimed from the date of repudiation till the complaint which comes to Rs. 3,345/- and also a cost of Rs. 500/- all totalling to Rs. 18,845/-.

Nor in the appeal after hearing both sides and going through the relevant records we find no compelling reasons to differ from the order of the District Forum. In the Proposal Form dated 28.2.1992, no doubt the insured has stated that he was not suffering from Tuberculosis and he has not consulted any Doctor for a disease that required treatment more than a week. Now according to the opposite parties, the insured as a matter of fact was suffering from Tuberculosis for the past 5 years from the date of repudiation i.e., 6.4.1994. But in the repudiation letter it is stated that the insured was suffering from Tuberculosis for the past 5 years, but on what basis they say so has not been mentioned at all. Now they say that one Doctor by name Dr. Madheswaran had treated the insured before the proposal and he had given a statement Ex. B4 and an affidavit before the District Forum Ex. B6 and in both these, he has stated that he has treated the patient for Tuberculosis. But no contemporary documents whatsoever has been filed by the opposite parties of the said Dr. Madheswaran. As pointed out by the District Forum, they have failed to file any admission register, case sheet or any other documents. It is the case of the opposite parties that subsequent to the treatment by Dr. Madheswaran, he had referred the patient to Gypmer Hospital and there too he had taken treatment. If that be the case as again pointed out by the District Forum, the opposite party could have produced some documents from there to show that indeed he was taking treatment for Tuberculosis. That has not been done. Ex. B4 is said to be an affidavit of the same Doctor. Only on the basis of these documents, we cannot come to the conclusion that the contention of the opposite parties is true. As pointed out earlier, in the repudiation letter neither the Doctor''s name has been mentioned nor the basis on which they would say that the insured was suffering from Tuberculosis has been noted and no document whatsoever of the Doctor for treatment of the insured has been filed. In these circumstances, rightly the District Forum has held that the repudiation was not reasonable and it would amount to deficiency in service. So holding the District Forum correctly had passed an award as stated above.

3. THUS we find no merit in the appeal. Accordingly the appeal is dismissed. However, there will be no order as to costs. Appeal dismissed. _______________

