(2012) 07 NCDRC CK 0098

In the National Consumer Disputes Redressal Commission

Faizan M A Zaheer S/O Late M A Qayyum — APPELLANT

Vs

Branch Manager Lic Sagar Road Miryalguda Nalgonda District , Divisional Manager Lic , Managing Director Lic , Sathia Murthy — RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 379 : 2012 3 CPJ 335

Hon'ble Judges : V.B.Gupta , Vinay Kumar J.

Advocate : Rayeece M.A.Khadir

Judgement

1. THIS appeal has been filed against the order of AP State Consumer Disputes Redressal Commission, in CCSR No.5666 of 2011. The Complainant had made the following prayer before the State Commission:- "The Hon''ble Court may be pleased to direct the Opp Party No''s (1) to (3) to pay the following amount towards settlement of death claim of the deceased assured per Mr. Fazal Mohammed Omer Qayyum (since dead) to the Complainant/nominee. i) admitted HLV of the deceased with multiplayer twenty two (22) times the annual income at rate of Rs.4,00,000/- PA is equal to 22 x 4,00,000 = Rs.88,00,000/- Compensation towards causing mental agony and torture Rs.5,00,000/- Towards deficiency of service by not calling the Complainant for negotiation contrary to the Public notice of the officials of Opp party Rs.5,00,000/- Total Rs.98,00,000/-"

2. THE complaint arises out of Money Plus policy taken by the brother of the Complainant from OP/LIC of India with effect from 29.3.2007. The insured died on 13.1.2010. As the nominee of the insured, the Complainant informed the OP on 27.1.2010. After certain amount of correspondence, the OP/LIC of India issued a proposal form on 28.5.2011. Allegedly the claim under the policy was filed on 28.8.2010 but the claim continued to remain with the OP without being settled till 29.10.2011, when the consumer complaint was made. As it appears from the complaint petition, legal notice was also issued to the OP/LIC on 19.4.2011 with no result till the filing of the complaint before the State

Commission.

3. IT is seen from the record submitted before the State Commission that under the terms of the policy the following amounts were payable:- "Sum assured under the Basic Plan Accident Benefit Sum Assured Rs.1 lakh Critical illness Rider Sum Assured : Rs.1 lakh Amount payable on death: In the event of the death of the life assured prior to the date of maturity, when the cover is in full force, an amount equal to the higher of sum assured under the basic plan or the Fund value units held in the Policy holder''s Fund value shall become payable notwithstanding which is mentioned above."

4. THE State Commission has noted that the assured had paid premium for three years commencing 29.3.2007, before he died on 13.1.2010. Considering the same, the State Commission has observed as follows:- "At the end of three years if the person is aged 33 years fund value was mentioned at Rs.41,758/- and the death benefit of Rs.1 lakh. We reiterate that the nominee would be entitled to receive the sum assured under the basic plan or the fund value as on the death of life assured whichever is more i.e., where the sum assured is Rs.1 lakh and the premium of Rs.10,000/- is paid for three years, the nominee would be entitled for Rs.1 lakh only assuming the fund value for the three years contributed by the life assured would be less than the sum assured. Therefore it could not have been Rs.88 lakhs on payment of yearly premium of Rs.10,000/- under the scheme. Since his death was after three years of taking of the policy by no stretch of imagination it can be said that an amount of Rs.88 lakhs would be accrued by covering all these tables that were prepared by the LIC agents enclosed by the complainant while filing the complaint. We are not satisfied with the claim mentioned as it is not supported by any rules. Therefore we are of the opinion that this is a fit case where the complainant can be returned for presentation before appropriate Dist. Forum having jurisdiction in the matter."

The State Commission therefore, decided to return the complaint with an observation that the same could be filed before an appropriate District Forum.

5. WE have perused the records and heard Mr. RMA Khadir, counsel for the appellant. The order of the State Commission has been challenged on the ground that the State Commission has arrived at its conclusion without hearing the other side and without appreciating the record.

6. A perusal of the impugned order shows that the State Commission has fully considered the nature of the insurance policy and the case of the complainant. It is a case of death of the assured just after three years of the commencement of the policy. In such a case, as cited above, the payable amount is the sum assured or the NAV of the units allocated to the policy holder, whichever is higher. Based on this, the State Commission has concluded that the matter will fall within the pecuniary jurisdiction of a District Forum.

7. IN our view, the conclusion of the State Commission is un-assailable. The appellant has challenged it merely on the ground that the State Commission has

not heard the OP/LIC of India. In this behalf the appellant has relied upon the decision in PUNJ LLOYD LTD Vs. CORPORATE RISKS INDIA LTD SCC 2 (2009) 301. This was a case of a claim by the appellant/complainant against the respondent for loss caused due to alleged negligence, incompetence and deficiency of service on the part of the respondent. The National Commission dismissed the complaint in limine on the ground that it involved disputed questions and contentions which were beyond the purview of the Commission. In appeal filed by the respondent, Hon''ble Supreme Court observed that from a look at the statements made in the complaint, it is not possible to say that the complainant had disclosed complicated questions of fact which could not be gone into by the Commission and the same could only be gone into by the civil court, before bringing the respondent on record and asking him to file his defence. Therefore, it was held that the National Commission was not justified in relegating the appellant/complainant to approach the civil court for decision.

8. THE facts, in the case before us are different. The argument of the complainant completely misses the point that when the material before the Commission showed that pecuniary jurisdiction lay elsewhere, the State Commission was not required to hear the other party and give a finding on merits. In any case, the complaint has arisen from the fact that the OP had kept the claim under the policy pending and had not decided it. The question of acceptability or otherwise of the decision of the OP/LIC of India, on the claim does not arise, as a decision had not been taken by the respondent/OP, till the consumer complaint was filed before the State Commission. For this reason, it was not necessary for the State Commission to hear the OP/LIC of India.

9. WE therefore, find no merit in this appeal. The same is dismissed. No orders as to costs.