(2011) 02 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

HDFC Standard Life Insurance Co.Ltd. APPELLANT

Vs

Jayalaxmi RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Citation : 2011 0 NCDRC 71 : 2011 1 CPJ 231 : 2011 1 CPR 243

Hon'ble Judges : Ashok Bhan , Vineeta Rai J.

Final Decision : Revision petition is disposed of

Judgement

1. THE present revision petition has been filed by HDFC Standard Life Insurance Co. Ltd.(hereinafter referred to as the Petitioner) being aggrieved by the order of the State Consumer Disputes Redressal Commission, Karnataka (hereinafter referred to as the State Commission) decided in favour of Smt. Jayalaxmi (hereinafter referred to as the Respondent) who was the original complainant before the District Forum.

2. THE brief facts of the case are that the deceased husband of the Respondent one Sidda Raju, had taken a policy from the Petitioner Insurance Company under the Single Life Endowment Plan w.e.f. 27.06.2003 for a period of 15 years. THE sum assured under the said policy was Rs.60,000/- which included accident insurance equivalent to the Policy sum, a total of which comes to Rs.1,20,000/-. THE insured died on 22.01.2004 and the Respondent being his nominee filed a claim with the Petitioner Insurance Company which repudiated the claim on the grounds that the insuree had replied in the negative to a specific query as to whether he consumer alcohol in Section 8 of the Insurance Application which signed this specific information. It was further stated that had this fact been disclosed in the application, the risk assessment of the insurer would have been different. THE insurance claim was, therefore, repudiated on grounds of suppression of this vital information as per the terms and conditions of the policy. Aggrieved by this action, Respondent filed a complaint before the District Forum seeking a direction that the Respondent be paid Rs.1,20,000/- with 18% interest and Rs.50,000/- towards mental agony and Rs.6,000/- towards cost. The

District Forum accepted the complaint on the grounds that at the time of taking of policy on 26.06.2003, the policy holder was healthy and was not suffering from any disease and Petitioner also has not been able to produce any documents or evidence to contradict this fact. It, therefore, directed the Petitioner to pay the Respondent Rs.60,000/- plus benefits (i.e. minus the amount pertaining to death through accident under Policy No.204154) and in case Petitioner fails to make payment within one month, Petitioner would be liable to pay the entire amount of the policy i.e. Rs.1,20,000/- along with interest @ 8% from 02.04.2004 till the date of repudiation of the policy. The Petitioner was further directed to pay Rs.5,000/- towards compensation and Rs.500/- as costs.

Aggrieved by this order, the Petitioner preferred an appeal before the State Commission which dismissed the appeal on the grounds that while the insurance company had relied upon the discharge certificate issued by J.S.S. Hospital, Mysore to show that the life insured had taken treatment in St.Johns Hospital, Bangalore during May, 2003, no affidavit of any person from the said hospital had been filed. In the absence of this, the State Commission saw no reason to interfere with the order of the District Forum and dismissed the appeal. Hence, the present revision petition. Counsel for Petitioner was present. None appeared on behalf of the Respondent although service is complete. It is therefore decided to dispose of the case ex parte.

3. LEARNED counsel for Petitioner submitted that the Fora below erred by not taking into consideration the two documents which included the Insurance Application Form for Single Life Endowment Plan filled up by the candidate in which he replied in the negative to the query Do you drink alcohol? as also the doctors certificate from J.S.S. Hospital which again indicated that the patient had been an alcoholic for the last 9 years and alcohol consumption had contributed to the disease which caused his death. Since the contract between an insurance company and an insuree is one entered in an utmost good faith, it is thus clear from these documents that the deceased had obviously suppressed the fact regarding the intake of alcohol and thereby the vital fact pertaining to his health and habits. We have considered the averments of learned counsel and the evidence on record. We agree that in view of the two documents which are on file, the insuree suppressed the fact that he consumed alcohol in the relevant insurance form and also that there is credible medical evidence of his being an alcoholic. There are numerous judgments of the Apex Court as also of this Commission that since an insurance policy is a contract entered between the two parties in utmost good faith, any violation of its terms and conditions by the insuree entitles an insurance company to repudiate the claim. These facts are relevant in the instant case, and therefore, learned Fora erred in not taking into account the settled law on the subject. We therefore, have no option but to set aside the orders of the Fora below. Counsel for Petitioner stated that Rs.30,000/- deposited by it before the State Commission has already been withdrawn by the Respondent. On compassionate grounds, we are not inclined to order refund of

this amount which may be retained by the Respondent. The revision petition is disposed of on above terms with no order as to costs.

