(2012) 09 NCDRC CK 0074

In the National Consumer Disputes Redressal Commission

Icici Prudential Life Insurance Co. Ltd APPELLANT

Vs

Chilakapati Sai Supraja RESPONDENT

Date of Decision : 17-09-2012

Acts Referred:

Citation : 2012 0 NCDRC 534

Hon'ble Judges : Vinay Kumar , J.M.Malik J.

Advocate : Avanish Kumar

Judgement

1. DECEASED, Pathakamuri Narayana obtained two insurance policies dated 25.10.2008 and 19.11.2008 under the "Life Stage RP " Plan from ICICI Prudential Life Insurance Company Ltd., the petitioner/opposite party in this case. Subsequently, Chilakapati Sai Supraja, the complainant was nominated as his nominee. The policy holder passed away due to Scorpion bite on 15.01.2009 at Santhanuthalapadu. After his death, the claimant nominee filed his claim. The petitioner did not reply the same. Legal Notice was also sent but it evoked no response. Ultimately, the complainant filed a complaint before the District Forum praying that the petitioner should be directed to settle the claim under two policies worth Rs. 10,00,000/- and Rs. 5,00,000/- totaling Rs. 15,00,000/- with interest at an early date and to pay compensation of Rs. 1,00,000/-. The District Forum allowed the complaint with the direction to the petitioner to process claim settlement within two months and pay to the complainant Rs. 1,00,000/- towards cost.

2. THE petitioner did not appear before the District Forum and ex-parte decree was passed against it. The petitioner preferred an appeal, which was also dismissed by the State Commission.

We have heard the counsel for the petitioner at length. The petitioner put up its defence for the first time before the State Commission. The District Forum did not have the taste of defences set up by the petitioner before the State Commission. Those defences cannot be considered at this late stage. Consideration of those new documents which formed no part of the record before

District Forum is not permissible.

It is also interesting to note that the petitioner did not try to get the ex-parte order set aside. The judgment of State Commission clearly goes to reveal that the petitioner did not ask for remand of the case to the District Forum for fresh disposal. It was further observed that under those circumstances, the State Commission was inclined to decide the order on the basis of the material already on record. The evidence led by the complainant before the District Forum is sufficient. There is no rebuttal to this evidence. The case of the complainant before the State Commission stands proved to the hilt. No interference is called for under the circumstances detailed above. However, in the interest of justice, let us consider what were the defences set up by the petitioner for the first time before the State Commission. It was argued that the Life Assured in both the above said proposal forms had mentioned his Date of Birth as 07.10.1965 and had submitted a "Form of Transfer Certificate " allegedly issued by the Head Master, Z.P. High School Chandalur and "Date of Birth Certificate " allegedly issued by the Head Mistress, Govt. High School, Maddipadu as proof of the same. Subsequently, during investigation conducted by the petitioner, it was found that those documents were forged. It is not out of place to mention here that no such proof has been placed on the record. It was also argued that the Life Assured died an unnatural death but no F.I.R. was recorded, no Panchnama or copy of the Post-Mortem report saw the light of the day. All these facts were communicated to the complainant vide letter dated 22.01.2010.

3. ALL these arguments are bereft of merit. As a matter of fact the petitioner should have blazoned these defences before the District Forum. It is difficult to understand why the same were kept under the hat. Production of necessary documents before the District Forum might have done the trick. Reality should dominate the Commission ''s mind. The Commission is bound to approach the problem more gingerly and realistically. The last pertinent question to the above said controversy is whether furnishing fake proof in respect of age is fatal to the claim of the claimant. Some questions remained unanswered such as what was his actual age, what was the difference between his actual age and the documents, which are alleged to be forged. How it would affect the policies. Why did the Insurance Company accept the fake documents, what are the duties of the agent of the LIC and what he was doing? Last but not the least, there is not even an iota of evidence that these documents are forged. No request was made to remand the case before the District Forum. No affidavit of school authorities in support of petitioner ''s case was filed to show that the document was forged. There is concurrent finding by both the foras below. They have nowhere missed the wood for tree. We add our voice to theirs and dismiss the revision petition.

