
(2013) 09 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

ICICI PRUDENTIAL LIFE INSURANCE CO. LTD

APPELLANT

Vs

Sudhir Kumar Garg

RESPONDENT

Date of Decision : 04-09-2013

Acts Referred:

Citation : 2013 0 NCDRC 854 : 2013 4 CPR 78 : 2014 4 CPJ 82

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : SANJAY K.CHADHA

Judgement

1. THIS revision petition has been filed by the petitioner/OP against the order dated 17.04.2008 passed by State Consumer Disputes Redressal Commission, UT Chandigarh (in short, "the State Commission") in Appeal Case No. 64 of 2008 - ICICI Prudential Life Insurance Co. Ltd. Vs. Dr. Sudhir Kumar Garg by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. BRIEF facts of the case are that complainant/respondent obtained ICICI Prudential Forever Life Policy for a sum of Rs.2,19,000/- on 31.1.2002 for a term of 20 years by paying annual premium of Rs.10,037/-. After making payment of 5 annual premiums, complainant surrendered the policy on guaranteed surrender value as per policy documents and requested the OP/petitioner to confirm the cash value of the surrendered policy which was Rs.56,360/-. According to the complainant, OP vide letter dated 23.5.2007 intimated to the complainant that surrender value was Rs. 23,681.26, which was arrived at by assigning some low fraction value to guaranteed additions. Alleging deficiency on the part of OP, complainant filed complaint. OP resisted complaint and submitted that complainant initially approached Ombudsman which was quasi-judicial authority and his complaint was dismissed vide order dated 12.7.2007 and in such circumstances, complaint filed before District Forum is not maintainable. It was further submitted that full value of guaranteed additions was payable only when the policy resulted in a claim by death or by maturity and guaranteed additions on surrendering policy would be restricted to cash value of the said additions arrived at application of discounting factor and surrender value

payable to the respondent as on 1.6.2007 was Rs.23,762/ - and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint and directed OP to pay Rs.55,155/ - along with compensation of Rs.5,000/ - for harassment and Rs.1,500/ - as costs. Appeal filed by the petitioner was dismissed by learned State Commission vide impugned order against which this revision petition has been filed. Authorized Representative of respondent appeared on 23.4.2013 and submitted that he would be filing written arguments and he would not be appearing on next date. Authorized Representative sent written submissions by post, but did not appear on 27.8.2013. Heard learned Counsel for the petitioner and perused record as well as written submissions submitted by respondent.

3. LEARNED Counsel for the petitioner submitted that as respondent surrendered policy after paying 5 annual premium, he was not entitled to full value of guaranteed additions and was entitled to only Rs.24,000/ - on 25.9.2007; even then, learned District Forum has committed error in awarding Rs.55,155/ - and learned State Commission further committed error in dismissing appeal; hence, revision petition be allowed and impugned order be modified.

4. PERUSAL of record clearly reveals that respondent obtained policy for a period of 20 years and surrendered after making payment of 5 annual premiums. Copy of policy at page 40 -A of the paper book clearly reveals that policy was subject to and governed by the terms of the policy document and all the terms and schedule contained therein (enclosed) shall together form a single agreement. As per terms of policy documents, bonus was payable as under: "Bonus: Guaranteed additions and bonuses (if applicable, under with profit policies) will be payable in terms of the prospectus and Company's internal guidelines and policies and Insurance Regulatory and Development Authority (IRDA) rules and regulations".

Thus, it becomes clear that bonus was payable as per guidelines and policies issued by IRDA and learned State Commission committed error in coming to the conclusion that there was no evidence that terms of the prospectus and Company's internal guidelines and policies and Insurance Regulatory and Development Authority (IRDA) rules and regulations were brought to the notice of the respondent. When these documents were part of the policy itself, respondent cannot say that he did not receive policy documents and terms and conditions and in such circumstances, respondent is bound by the terms and conditions of the policy documents as held by Hon''ble Apex Court in 2013 (I) SCALE 410 - Export Credit Guarantee Corpn. of India Ltd. Vs. M/s. Garg Sons International

5. LEARNED State Commission further observed that there was no evidence as to how petitioner arrived at the figure of approved guaranteed additions. Perusal of record clearly reveals that Insurance Ombudsman by order dated 12.7.2007 after calculation came to the conclusion that respondent was entitled to Rs.23,762/ - and not Rs.56,360/ -, as per calculations in paragraph 3 of the

order which were provided by Vice President's claim. In such circumstances, it cannot be said that without any calculations petitioner arrived at the figure of Rs.23,762/ -.

6. LEARNED Counsel for the petitioner also placed reliance on II (1996) CPJ 69 (NC) - Branch Manager, LIC of India & Anr. Vs. A. Paulraj in which also the cash value of any existing vested bonus additions was permissible and it was observed as under: "Guaranteed Surrender Value: This policy can be surrendered for cash after the premiums have been paid for at least three years. The minimum surrender value allowable under this policy is equal to 30% of the total amount of the mentioned premiums paid excluding premiums for the first year and all extra premiums and/or additional premiums for accident benefit that may have been paid. The cash value of any existing vested bonus additions will also be allowed. (Emphasis supplied)

The question for decision, therefore, is as regards the cash value of any existing bonus additions. The contention of the insured is that the cash value of the bonus should be the same as the accrued bonus thereon even before the maturity of the policy. That obviously is not the correct in terms of Condition No. 7. If the intention was to pay the entire bonus accrued on the policy at any given point of time before maturity, then the concept of cash value would not have been incorporated in this condition for calculating the guaranteed surrender value. The total amount of bonus is paid on the maturity of the policy along with the final payment and till then it remains with the LIC which can utilise it for investment purposes. If it has to pay the accrued bonus earlier than the final payment, the Condition No. 7 introduces the concept of cash value of the total accrued bonus upto that point to time, and the cash value has been calculated according to the surrender value factor which has been clearly indicated in the sheet showing calculation of the surrender value of the policy. We, therefore, find that the State Commission has erred in construing the cash value to be the same as the accrued bonus even, when paid before the maturity". In the light of aforesaid judgment, it becomes clear that respondent was entitled to only Rs.23,762/ - on account of pre -maturesurrender of the policy and learned District Forum committed error in awarding Rs.55,155/ - and learned State Commission further committed error in upholding order of District Forum and revision petition is liable to be allowed.

7. CONSEQUENTLY , revision petition filed by the petitioner is allowed and impugned order dated 17.04.2008 passed by learned State Commission in Appeal No. 64 of 2008 - ICICI Prudential Life Insurance Co. Ltd. Vs. Dr. Sudhir Kumar Garg is set aside and complaint is dismissed. We hold that surrender value intimated by petitioner to the respondent is correct and respondent is entitled to receive cheque of only Rs.23,681.26 from the petitioner along with 9% p.a. interest from 23.5.2007 till realization of amount. There shall be no order as to costs.