(2006) 03 NCDRC CK 0049

In the National Consumer Disputes Redressal Commission

KALYAN SINGH APPELLANT

Vs

LILAVATI BAI RESPONDENT

Date of Decision : 22-03-2006

Acts Referred:

Citation : 2006 2 CPC 426 : 2006 3 CPJ 185

Hon'ble Judges : V.K.Agrawal , Veena Misra , R.S.Awasthis J.

Final Decision : Appeal partly allowed

Judgement

1. THE appeal, under Section 15 of the Consumer Protection Act, 1986 is directed against the order dated 28.6.2005 in Complaint No. 115/2003 by District Consumer Disputes Redressal Forum, Sarguja, Ambikapur (hereinafter called the ''District Forum'' for short) directing the appellants to pay the complainant/respondent Nos. 1 to 6 the assured amount of Rs. 25,000 with interest @ 9% p.a. besides Rs. 1,000 as compensation and Rs. 1,500 as cost.

2. INDISPUTABLY, the husband of complainant/respondent No. 1 herein Khemsingh was a member of Primary Forest Products Co-operative Society Ltd., Umeshwarpur as tendu leaf collector, and was a member of the group insurance policy. Under the said group insurance policy, an amount of Rs. 25,000 was payable to the legal representatives of the deceased member, in case of his death due to accident. It is also not in dispute that the life assured Khemsingh, died due to accident on 22.7.2001, as lightning struck him. It appears that the claim of complainant/respondent Nos. 1 to 6 the legal representatives of the deceased was not honoured by the appellants and respondent No. 7 LIC. Hence, the complaint before the District Forum. The complaint was resisted by the appellants as well as respondent No. 7 LIC. It was stated by the appellant No. 1 in its written version that the insurance cover was granted by respondent No. 7 LIC and though respondent Nos. 1 and 2 submitted the claim of the complainant to respondent No. 7 LIC in time, yet the amount under the claim was not paid to the complainants. Hence, it was alleged by the appellant No. 1 that he did not commit any deficiency. Appellant No. 2 in its separate written version raised a

plea regarding delay in submission of claim by the complainants. It was also alleged that the complainants were not its consumer.

Respondent No. 7 LIC also registered the complaint and filed a separate written version in which it was stated that the claim was not submitted to it, hence the payment under the said scheme could not be made by it. Thus, there was no deficiency in service.

3. DISTRICT Forum in the impugned order absolved respondent No. 7 LIC from the liability, holding that appellants have failed to establish that the claim was forwarded to respondent No. 7 LIC. However, the appellants were held liable to pay the assured amount to the respondents 1 to 6 the LRs of life assured Khemsingh. We have heard the learned Counsel for the appelants as well as respondent No. 7 LIC. None appeared in this appeal for respondent Nos. 1 to 6.

4. IT may be noted at the outset that appellants as well as respondent No. 7 LIC though have referred to the alleged provisions and terms and conditions of the policy, but the said policy has not been produced by either of them. IT is possible to ascertain the terms and conditions of the policy, in the absence of the policy document itself. Learned Counsel for the appellants in substance submitted that the claim has been preferred after one year or so. However, on perusal of the document of claim we do not find any signature. It is also not clear as to who was the person who had put the rubber stamp on the claim form. It was also alleged by respondent No. 7 LIC that the claim was never received by them. It was incumbent for appellants to show that the claim was submitted to respondent No. 7 LIC for consideration and settlement thereof. They have failed to do so. It may however be noted that as per their averments in written version, the respondent No. 7 LIC had undertaken the liability of payment of the assured amount in case of accidental death of the member of group insurance policy. It also appears that under the scheme the premium amount was to be received by the appellants and claim form was to be routed through them and should have been submitted to respondent No. 7 LIC. In view of the above aspect of the matter, it is clear that the appellants were to act as agent of respondent No. 7 LIC and were to discharge the duties of collection of premium and to send the same with claim form, to LIC who in turn was to pay the assured amount to the L.Rs. Therefore, appellants'' action of collection of premium and submission of claim form, etc. was to be done as agent of respondent No. 7 LIC. The principal LIC, therefore, would be vacariously liable for payment of assured amount as premium was indisputably paid by the deceased, to its agents, - the appellants.

5. ACCORDINGLY, we hold that respondent No. 7 LIC is also jointly and severally liable with the appellants to make payment of assured amount as awarded by the District Forum.

6. THE appeal is, therefore, partly allowed. THE impugned order stands modified. It is directed that respondent No. 7 LIC is also jointly and severally liable with the appellants to pay the assured amount of Rs. 25,000, as directed by the

District Forum. However, as the appellants have failed to prove that they have submitted the claim form to respondent No. 7 LIC, interest, compensation of Rs. 1,000 and cost of Rs. 1,500 awarded by the District Forum shall not be payable by respondent No. 7 LIC and that the said amounts would be liable to be paid to the complainants by the appellants only Appeal partly allowed.