(2014) 05 NCDRC CK 0113

In the National Consumer Disputes Redressal Commission

Kishor Chandrakant Rathod APPELLANT

Vs

The Managing Director, Icici Prudential Life Insurance Co. Ltd. RESPONDENT

Date of Decision : 21-05-2014

Acts Referred:

Citation : 2014 0 NCDRC 292 : 2014 3 CPJ 154

Hon'ble Judges : S.M.Kantikar , J.M.MALIK J.

Judgement

1. MR . Kishor Chandrakant Rathod purchased ICICI Prudential Life Insurance Pension Policy on 18.12.2009. He paid a sum of Rs. 1,00,000/ - only as a premium for the policy without knowing the details of the policy. He affixed the signatures on the application form. The petitioner was informed by the ICICI Bank official that their company extends this service of completing formalities to their valuable customers for investment in their Bank and delivered documents later on. Again ICICI Bank official suggested to him that the complainant will have to pay premium for three years lock in period and after lock in period the benefits of policy will continue as investment for 10 years and he could withdraw the accumulated fund value which could work out to almost total i.e. a premium of Rs. 1,00,000/ - for three consecutive years lock in period from the inception date would fetch would end in the locking period to Rs. 5.90 lakh. Again in case of accidental death accumulated fund will be given to nominee. The complainant trusted him.

2. THEREAFTER , from reliable sources, he came to know that this investment may not bring the desired result. He made an enquiry from the Bank official who informed him that he should wait and watch and let the market move on. At the end of year, the complainant realised that he was being taken for a ride and immediately discontinued his second premium, to be on the safer side of future trap of such policy plan and enquired about any assurance of the return of the policy. He was also informed that in case he will discontinue, the premium will be forfeited. In August 2011, he received the phone call asking him to invest because the market was going up. The complainant wanted his money back. He

approached ICICI Prudential Life Insurance Company, IRDA and Ombudsman, Ahmedabad but it did not ring the bell. Consequently, he filed a complaint before the District Forum claiming the refund of Rs. 1,00,000/ - plus term deposit of ICICI Bank during December 2009 to April 2012 and claimed Rs. 3.60 lakhs compensation total being Rs. 4.95 lakhs. The respondent contested this case.

3. THE District Forum dismissed the complaint. The appeal filed by the complainant was also dismissed.

4. THE petitioner did not appear for arguments. We have perused the Revision Petition. The complainant framed the following questions of Law: - QUESTION OF LAW: - A. Whether the perverse judgment of the Hon ''ble State Commission passed in first appeal without applying its judicial mind and being against the principles of natural law of justice and under the Constitution of India any institution like ICICI Prudential Life Insurance Co. Ltd. can take away CITIZEN (insurer) investment money by putting ambiguous clause in words and cheating in selling with giving short free look 15 days for abiding all terms not showing at signing of policy proposal and any lapse of premium unpaid due to circumstances result in Investment refund is ZERO is liable to be set -aside.

B. Whether the conclusion of the Hon ''ble State Commission that the complaint was barred by time by drawing an adverse inference of the Hon ''ble District Forum order and only the respondents (OP ''s) written submission and affidavit is liable to be set aside.

C. Whether the conclusion of the Hon ''ble State Commission has erred in ignoring the fact that petitioner had discussed with the registrar of the District Forum and thereon accepted filing of the complaint considering the written cause of action submitted on 09.01.2012 and not having accepted the condonation of delay application as said.

D. Whether the conclusion of the Hon ''ble State Commission has erred in ignoring the fact that it is peremptory in nature and requires Hon ''ble District Forum before admit the complaint that it is within limitation clause under CPA Act Sec 24A and also record in writing the reason agreed with application for condonation of delay as citation of the Apex Court judgment on case of State Bank of India V/s M/s B.S.Agricultural on 20th March 2009.

E. Whether the Hon ''ble State Commission has erred in ignoring the fact that the reason stated for delay in filing the complaint with District Forum on commission hearing date has not been taken on records.

F. Whether the Hon ''ble State Commission has erred in ignoring the fact that 1. In the appeal the respondent written nowhere its Branch address, Regional office address or any contact person telephone number, fax number etc. and neither contacted the policy holder after discontinued premium. An no courtesy call as a customer relationship. 2. In the appeal ICICI Bank is not the respondent serial No. 2 which is referred in the judgment order but in fact it is narrated the local branch office address of the respondent Sr.No.1. 3. An agent who sold policy on behalf of the respondent shall be made party, as agent only provides information that trained by the respondent. Thus how an agent ICICI Bank is mis -joinder of party.

G. Whether the Hon ''ble State Commission has erred in ignoring the fact that Respondent neither having attended District Forum after giving Thirteen Hearing dates and nor submitted the written arguments and interrogatory reply of which right were also closed by Hon ''ble District Forum and Four State Commission Hearing dates unattended by the respondents only substantiated the deficiency in services to the Hon ''ble State Commission and Hon ''ble District Forum. ''''

Instead of touching the heart of the problem, the complainant has laid down emphasis on peripheral matters. This case is clearly barred by time. The cause of action arose in the year 2009 itself but the complaint has been filed in the year 2012. No application for condonation of delay was moved. The Commission is bound by the Law laid down in the Consumer Protection Act. Section 24 -A which clearly laid down that the complaint must be filed within a period of two years. See the law laid down in the case of ''''Kandimalla Raghavaiah & Co. versus National Insurance Co. Ltd. And another, 2009 CTJ 951 (Supreme Court) (CP) '''', ''''State Bank of India Vs. B.S. Agricultural Industries, 2009 CTJ 481 (SC) (CP)= JT 2009 2009 (4) SC 191 '''', ''''HUDA vs. B.K. Sood (2006) 1 SCC 164, and ''''V.N.Shrikhande (Dr.) vs. Anita Sena Fernandes (2011) 1 SCC 53 ''''.

5. THE moment the complainant made up his mind that he was to withdraw from this scheme in the year 2009, the cause of action arose there and then. The complainant has made a vain attempt to kick against the bricks.

6. IT must be borne in mind that the petitioner is an educated person. He was supposed to read each and every terms and conditions of the policies. There are no oral rules and conditions of the policy. One has to act in accordance with the frame work of the policy. The complainant is not a gullible person who could have been taken up garden path. It appears that he did not act prudently. He used the ink but not his brain. It is well settled that man may tell lies but the documents cannot. Everywhere he has mentioned that he was informed by a Bank official. The name of that Bank official did not see the light of the day. His story does not just stack up. No deficiency can be attributed to the respondent. They have acted in accordance with the Law on the other hand the complainant swallowed the bait. The petitioner has made a feckless attempt to assail orders of fora below. The Revision Petition is, therefore, dismissed.

