(2017) 01 NCDRC CK 0041

In the National Consumer Disputes Redressal Commission

Case No : 3182 of 2012

KUNWAR PAL	APPELLANT
Vs	
CEO, SAHARA INDIA LIFE INSURANCE CO. LTD. & ANR.	RESPONDENT

Date of Decision : 18-01-2017

Acts Referred:
Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : 2017 1 CPR 124

Hon'ble Judges : B.C. Gupta

Advocate : Gautam Godara, Simranjeet Singh

Judgement

1. This revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986, against the impugned order dated 26.06.2012, passed by the Haryana State Consumer Disputes Redressal Commission, (hereinafter referred to as "the State Commission") in First Appeal No. 1871/2010, CEO, Sahara India Life Insurance Co. Ltd. & Anr. vs. Kunwar Pal, vide which, while allowing the appeal, the order dated 26.10.2010, passed by the District Consumer Disputes Redressal Forum, Sonipat in Consumer Complaint No. 94/2010, filed by the present petitioner, allowing the said complaint, was set aside and the consumer complaint was ordered to be dismissed.

2. Briefly stated, the facts of the case are that the father of the complainant Mahabir Singh obtained a life insurance policy, bearing no. 00254419 from the opposite party (OP) Insurance Company for an insured sum of Rs. 1 lakh and the said policy was issued on 30.11.2008. The complainant was a nominee under the policy. The father of the complainant died on 07.03.2009 due to heart attack, following which, a claim was lodged with the Insurance Company, but the same was repudiated on the ground that the life assured had deliberately and knowingly concealed material facts about his weak eyesight for the last 13 years. It was stated in the letter dated 03.11.2009 issued by the Insurance Company to the petitioner that the life assured was suffering from pre-existing physical disability (weak eye sight) since 13 years, which was not mentioned at the time

of signing the proposal form. The claim was, therefore, being repudiated. The complainant filed the consumer complaint in question, seeking directions to the OP Insurance Company to pay the assured sum of Rs. 1 lakh under the policy and also Rs. 50,000/- as compensation for mental harassment etc. and Rs. 11,000/- as litigation cost etc.

3. The complaint was resisted by the Insurance Company by filing a written statement before the District Forum, in which they stated that in addition to the concealment of material facts about his eyesight, the life assured had made deliberate misrepresentation about his occupation, nature of duties, annual income and source of income. The life assured stated that he had retired from Haryana Roadways and was getting pension of Rs. 65,000/- per annum, but the true fact was that he was removed from the services of the Roadways in the year 1995 and was not receiving any pension, because the length of service put in by him, was not enough to enable him to get pension. It was also mentioned that since the policy was Unit Linked Plan, a sum of Rs. 7273.82 had been paid to the life assured, being the Fund Value under the policy.

4. The District Forum, after taking into account the averments of the parties, allowed the complaint, saying that it was the duty of the Insurance Company to verify and confirm the facts before issuing the policy. The District Forum, directed that a sum of Rs. 1 lakh should be paid to the complainant alongwith interest @ 9% per annum from the date of death of Mahabir Singh till realisation and a further sum of Rs. 5,000/- should be given as compensation. Being aggrieved against the said order of the District Forum, the OP Insurance Company challenged the same by way of an appeal before the State Commission, which was allowed vide impugned order dated 26.06.2012 and the consumer complaint was dismissed. Being aggrieved against the impugned order, the complainant is before this Commission by way of the present Revision Petition.

5. It was stated during arguments by the learned counsel for the petitioner that the cause of death of the life assured was cardiac arrest, which had nothing to do with the weak eyesight of the life assured. In the repudiation letter, the OP Insurance Company had denied the claim on the basis of suppression of information regarding weak eyesight only. In so far as the entries in the proposal form, regarding the receipt of the pension etc. were concerned, the said figures were filled in by the agent only and the life assured had no knowledge about the same.

6. The learned counsel for the respondent, however, stated that the order, passed by the State Commission was a well-reasoned order, based on a rational analysis of the facts and circumstances of the case. It had been clearly brought out that the life assured had made deliberate misrepresentation about his occupation, nature of duties, annual income etc. In fact Mahabir Singh was removed from the service of the Haryana Roadways in the year 1995 due to weak eyesight, and since his service was short, he was not granted any pension. The learned counsel stated that a contract of insurance was a contract of good

faith, uberrima fides and hence, the Insurance Company was justified in repudiating the claim.

7. I have examined the entire material on record and given a thoughtful consideration to the arguments advanced before me.

8. A simple perusal of the proposal form submitted by the father of the complainant, Mahabir Singh before the OP Insurance Company shows that he had mentioned in the column, ''nature of duties'' that he was a pensioner and his source of income was pension and that he was getting Rs. 65,000/- per annum as pension. On the other hand, it is amply made clear that Mahabir Singh was retired from the Haryana Roadways in the year 2008, because of his weak eyesight and that he was not drawing any pension. The complainant had nowhere contradicted the version given by the OP Insurance Company that the life assured was not a pensioner. It has also not been denied that he was retired from the service due to weak eyesight. It is evident, therefore, that it was the duty of the life assured to provide truthful and correct information to the Insurance Company at the time of filling up the proposal form. The contention taken by the complainant that the form was filled by an agent, does not provide him any benefit, because it has not been denied that the said form was submitted by the life assured under his own signatures.

9. It may further be stated that in the grounds of the Revision Petition filed before this Commission, there is no mention about the factum of getting pension or being a pensioner, rather the petitioner has not touched this issue at all in their Revision Petition. It was the duty of the petitioner to provide a reasonable explanation for the lapse in providing wrong information to the Insurance Company, if he was seeking any relief by way of the present Revision Petition.

10. Based on the discussion above, it is held that there is no force in this Revision Petition and there is absolutely no ground to take a view different from that taken by the State Commission in the impugned order. The present Revision Petition is, therefore, ordered to be dismissed and the impugned order passed by the State Commission is upheld. There shall be no order as to costs.