(2013) 08 NCDRC CK 0059

In the National Consumer Disputes Redressal Commission

Laxmania Prajapati APPELLANT

Vs

ORIENTAL INSURANCE CO LTD RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : 2013 0 NCDRC 600

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

Advocate : ANIS UR REHMAN

Judgement

1. THIS revision petition has been filed by the petitioners/Complainants against the order dated 23.6.2006 passed by the State Consumer Disputes Redressal Commission, Chhattisgarh (in short, ''the State Commission '') in Appeal No. 226/05 - Oriental Ins. Co. Ltd. Vs. Kailash Prajapati by which, while allowing appeal, order of District Forum allowing complaint was set aside.

2. BRIEF facts of the case are that complainant/petitioner Kailash Prajapati was an employee OP No. 2/Respondent No.2 and joined group Janata accident personal policy issued by OP-1/Respondent No.1 for Rs.2,50,000/-. Premium was deducted from complainant ''s salary on 31.10.2001. Complainant sustained head injury in an accident and lost one eye. Complainant lodged claim with OPs which was repudiated by OP No.1. Alleging deficiency on the part of OPs, complainant filed complaint before District Forum. OPs contested complaint and OP No. 1 submitted that intimation of accident was given to it belatedly on 8.3.2002. OP No. 2 submitted that no intimation of accident was given to it and prayed for dismissal of complaint. Learned District forum after hearing both the parties, allowed complaint and directed OP No. 1 to pay Rs.2,50,000/- along with interest and cost of Rs.1,000/-. OP No. 1 filed appeal before the State Commission and learned State Commission vide impugned order allowed appeal and dismissed complaint against which, this revision petition has been filed. During pendency of revision petition, petitioner- Kailash Prajapati died and his wife and children being legal representative of Kailash Prajapati were taken on record. None appeared for the respondent even after service. Heard learned

Counsel for the petitioner who submitted that as deceased Kailash Prajapati was covered by the insurance policy and lost one eye in the accident, District Forum rightly allowed complaint and learned State Commission has committed error in allowing appeal; hence, revision petition be allowed and impugned order be set aside.

3. PERUSAL of record clearly reveals that complainant Kailash Prajapati was covered by group Janata personal insurance policy finalised between OP No. 1 & 2 for Rs.5,00,000/- and complainant ''s risk was covered to the extent of Rs.2,50,000/- on loss of one limb or one eye.

4. PERUSAL of disability certificate issued by District Medical Board clearly reveals that Kailash Prajapati sustained 30% disability in his eye and complainant could not prove the fact that he lost complete vision in one eye due to accident. As per terms and conditions of the policy, Kailash Prajapati was entitled to benefits of the insurance coverage only on loss of one eye, whereas Kailash Prajapati ''s loss of vision was only 30% and as such, he was not entitled to get any insurance benefits under the policy. Learned Counsel for the petitioner could not draw our attention to any other medical report on account of which, it can be held that Kailash Prajapati suffered complete loss of vision in one eye and in such circumstances; order passed by learned State Commission is in accordance with law, which does not call for any interference. Consequently, revision petition filed by the petitioner is dismissed with no order as to costs.