(2018) 03 NCDRC CK 0134

In the National Consumer Disputes Redressal Commission

Case No : Revision Petition No. 1871 Of 2016

Liberty Videocon General Insurance Company Ltd. APPELLANT

Vs

Shivbhajan Sahu & Anr. RESPONDENT

Date of Decision : 20-03-2018

Acts Referred:

Citation : (2018) 03 NCDRC CK 0134

Hon'ble Judges : Ajit Bharihoke, J

Bench : Single Bench

Advocate : Navneet Kumar

Final Decision : Allowed

Judgement

1. This revision is directed against order of the State Commission Chhattisgarh dated 24.05.2017 in FA No. 2016/59.

2. Briefly put, the facts relevant for the disposal of the revision petition are that Late Sh.Jhumak Lal Sahu had a saving bank account in respondent

no.2 / bank. Respondent no.2 had a personal accident insurance scheme for its saving bank account holders. Late Sh. Jhumak Lal Sahu through bank

became member of the aforesaid insurance scheme for which a premium of Rs.65/- was paid by the bank and debited to the account of said insured.

Sh. Jhumak La Sahu unfortunately died during the validity of insurance policy due to train accident. Respondent no.1 / complainant being son and legal

heir of deceased insured submitted the insurance claim. The claim, however, was repudiated by the petitioner / insurance company on the ground that

as per the terms and conditions of the insurance claim, only person within the age bracket of 5 to 75 years were eligible for becoming the member

under the group insurance scheme and as the deceased was aged above 75 years.

3. The complainant being aggrieved of the repudiation of insurance claim filed a consumer complaint in District Forum Durg against the petitioner /

insurance company as well as respondent no.2 / Bank. The opposite parties decided the complaint by denying the allegations.

4. The District Forum Durg on consideration of pleadings and evidence found both the petitioner and respondent no.2 / bank guilty of deficiency in

service and directed the opposite party as under:

â??1. The non applicant no.1 & 2 jointly and severally will pay Rs.5,00,000/- (rupees five lakh only) to the complainant;

2. The non applicant no.1 & 2 jointly and severally will also pay interest @ 12% per annum on the said amount from the date of filing complaint dated

17.03.2015 till realization to the complainant;

3. The non applicant no. 1 &2 jointly and severally will pay Rs.50,000/- to the complainant towards mental agony;

4. The non applicant no.1 & 2 jointly and severally will also pay Rs.5000/- to the complainant towards litigation expenses.â??

5. Being aggrieved of the order of the District Forum, the petitioner / insurance company approached the State Commission in appeal. The State

Commission Chhattisgarh on reconsideration of the record and evidence confirmed the order of the District Forum and dismissed the appeal.

6. Learned counsel for the petitioner / insurance company has contended that orders of the Fora below are not sustainable because they have totally

ignored the relevant condition of the insurance policy. It is argued that as per the terms and conditions of the policy, the accidental group insurance

cover could be extended only to the persons aged between 5 years to 75 years. The Fora below has ignored the fact that deceased at the time of

becoming member of the group insurance scheme was more than 75 years age. In support of his contention, learned counsel has drawn my attention

to Voter Id card of the insured in which as on 01.01.2003 the age of the deceased Jhumak Lal Sahu s/o Ramadin is shown as 70 years. It is argued

that Jhumak Lal Sahu became member of subject insurance policy on 14.01.2014. Therefore, going by the age given in the voter ID card at the

relevant time, Jhumak Lal was 81 years old. As such, in view of condition no.17 of the general terms and conditions of the insurance contract, Jhumak

Lal Sahu was not legible for becoming member of the relevant group insurance policy.

7. On perusal of the judgment of State Commission, I find that State Commission has rejected the plea of petitioner / insurance company that

deceased Jhumak Lal Sahu was not eligible for becoming member of the subject accident group insurance policy as he was 81 years old. The State

Commission has also ignored that District Forum on consideration of the voter ID card and the post mortem report had concluded that at the time of

becoming member of the policy, Jhumak Lal Sahu had already crossed the upper limit of eligibility on the basis of age.

8. From the above stated facts, it is clear that Jhumak Lal at the relevant time when insurance cover was extended to him was 81 years old and not

eligible for insurance. Respondent no.2 / bank despite of the aforesaid fact deducted the insurance premium and included his name in the group of the

persons covered under the subject insurance scheme. As it was a group insurance policy regarding which the details of the persons included were

supposed to be sent by the bank to the insurance company, the petitioner insurance company was not supposed to know about the details pertaining to

the age of the insured. Thus, in my opinion it is respondent no.2 bank who is guilty of carelessness and deficiency in service. So far as petitioner /

insurance company is concerned, it was justified in repudiating the claim.

9. In view of the reasons stated above, I allow the revision petition of the petitioner / insurance company and set aside the impugned order so far at it

holds the petitioner jointly and severally liable to pay the compensation awarded by the District Forum. The impugned order is modified to the effect

that amount of insurance claim and compensation awarded by the Fora below shall be paid by respondent no.2 / Bank.

10. As a pre condition to the stay of the execution, pursuant to the direction of this Commission, petitioner has deposited 50% of the awarded amount

with the State Commission. The amount so deposited be released to the petitioner with interest, if any, accrued.