(1994) 03 NCDRC CK 0085

In the National Consumer Disputes Redressal Commission

LIC OF INDIA — APPELLANT

Vs

AJIT SINGH — RESPONDENT

Date of Decision : 07-03-1994

Acts Referred:

Citation : 1994 1 CPC 642 : 1994 2 CPR 205 : 1994 3 CPJ 69

Hon'ble Judges : S.S.Dewan , R.L.Gupta J.

Final Decision : Appeal allowed

Judgement

1. LIFE Insurance Corporation appeals against the order dated October 13,1993 of the District Forum, Gurdaspur allowing the complaint and directing the payment of the insured amount in monthly instalments spreading over 10 years w.e.f. 6.4.1991 with ancillary relief.

2. THE facts are not in serious dispute and merit notice with relative brevity. THE respondent-consumer Ajit Singh took out a policy from the Life Insurance Corporation on 14.6.1989 for a sum of Rs. 50,000/- with accidental benefits. He met with motor accident on 1st March, 1991 and sustained injuries on his person. As a result of the injuries, his right leg was amputated on 6.3.1991. He applied to the Insurance Corporation on 6.12.1991 for all the benefits accruing to him on account of the said mishap. However, the LIC paid no heed and he was put off by one excuse or the other and ultimately the Insurance Corporation repudiated his claim on 26.9.1992. Unable to secure any redress, he preferred a complaint before the District Forum on 10.11.1992. On notice being issued, the respondentInsurance Corporation raised some preliminary objections which, however, were not seriously pressed at the threshold. On merits, the primal plea taken was that as per Clause 10(a) of the LIC Policy, disability must be the result of an accidental injury, which independently of all other causes and within 90 days from the happening of such accident, result in the irrecoverable loss of the entire sight of both eyes or in the amputation of both hands at or above wrists or in the amputation of both feet at or above ankles or in the amputation of one hand at or above wrist and one foot at or above the ankle, shall be deemed to

constitute such disability. The stand taken was that the disability as mentioned by the insuredconsumer was not covered by the policy contract so he was not entitled to any relief. The District Forum on the basis of the material on record found that the case of the insured was fully covered under the policy and consequently granted the reliefs as noted at the outset.

Sh. B.J. Singh, the learned Counsel for the appellant has strenuously urged that the respondent-complainant had failed to send intimation to the Insurance Corporation regarding the mishap within the stipulated period of 90 days and therefore, he was not entitled to the payment of disability benefits and that even otherwise as per condition of the contract, injury suffered by him was not such as would entitle him to disability benefits and consequently, his claim was rightly repudiated by the Insurance Corporation. Sh. J.R. Arora, learned Counsel for the respondent has stoutly opposed the arguments advanced by the learned Counsel for the appellant. He has contended that the case of the respondent is fully covered under Clause 10(a) of the policy and he is entitled to the relief claimed by him. We are afraid that it is not easy to detect any modicum of merit in the stand taken on behalf of the respondent.

3. IN order to appreciate the aforesaid submission, it is apt to straightaway refer to the relevant part of Clause 10(a) of the policy which is in the following terms:- "The disability above referred to must be disability which is the result of an accident and must be total and permanent and such that there is neither then nor, at any time thereafter any work, occupation or profession that the Life Assured can ever sufficiently do or follow to earn or obtain any wages, compensation or profit. Accidental injuries which independently of all other causes and within ninety days from the happening of such accident, result in the irrecoverable loss of the entire sight of both eyes or in the amputation of both hands at or above the wrists, or in the amputation of both feet at or above ankles, or in the amputation of one hand at or above the wrist and one foot at or above the ankle, shall also be deemed to constitute such disability. Immediately after the happening of the disability, full particulars thereof must be given in writing to the office of the Corporation where this policy is serviced, together with the then address and whereabouts of the Life Assured and within ninety days after the happening of the disability there must be given to the servcing Office of the Corporation in the manner required by it, proof of disability satisfactory to the Corporation and without any expense to the Corporation, and thereafter similar proof must be given, as and when required by the Corporation, of the continuance of such disability. Any Medical Examiner nominated by the Corporation shall be allowed to examine the person of the Life Assured in respect of any disability claimed, in such manner and at such times before and or after the disability is accepted by the Corporation as the Corporation may require."

The main contention put forward by the insurer is that the case of the respondent is not covered under Clause 10(a) of the policy because in the present case, there is amputation of one leg above the knee, whereas, it has

been specifically mentioned in the said clause that the accident benefit would accrue to the policy holder if both feet at or above the ankles are amputated or there is amputation of one hand at or above the wrist and one foot at or above the ankle. There is considerable merit in the aforesaid submission. Since, there is amputation of one leg in the case of the respondent, his disability cannot be considered as total and permanent and therefore, no accidental benefit can be given to him.

4. YET again, a reference is necessarily to be made to Clause 10(a) which mandates an immediate notice and information to the insurer in the event of an accident of the nature which is covered by the policy. Herein it is common ground that though the alleged amputation of right leg of the respondent was done on 6.3.1991, it was not till as late as 6.12.1991 that the first communication was made by the respondent to the insurer. Undoubtedly, a patent violation of Clause 10(a) of the policy is writ large on the record. The District Forum is patently in error in passing the award against the appellant and in favour of the complainant. In the first instance, the repudiation of the claim under the policy by the Insurance Corporation was made by a speaking order, the reason stated therein could not be said to be irrelevant or extraneous. It cannot be said that the repudiation was not made in good faith. As much there was no bona fide complaint maintainable before the District Forum. In view of the foregoing reasons, the conclusion is inevitable that in the present case the Insurance Corporation cannot even remotely be held liable for any deficiency in the insurance service which it had undertaken to render to the respondent. Whatever remedy may perhaps be open to the respondent in the plenary jurisdiction of the Civil Court, he does not seem to have any cause of action in the summary consumer jurisdiction. We, therefore, allow the appeal and set aside the order of the District Forum. There will be no order as to costs. Appeal allowed.

