(1994) 02 NCDRC CK 0061

In the National Consumer Disputes Redressal Commission

L.I.C. Of India — APPELLANT

Vs

Chandrakala — RESPONDENT

Date of Decision : 26-02-1994

Acts Referred:

Citation : 1994 1 CPR 884 : 1994 2 CPJ 55

Hon'ble Judges : D.R.Vithal Rao , K.R.Ramaswamy Iyengar , Susheela Cheluvaraju J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal, by the opposite party, is directed against the order dated 23.1.1993, passed by the District Forum, Bidar, in Compt. No. 55/92, directing the opposite party to pay the complainant, the assured sum of Rs. 30,000/- with interest thereon. The facts, briefly stated, are as follows : 1. The husband of the complainant had obtained a Life Insurance Policy for an assured sum of Rs. 30,000/- from the opposite party. The complainant was the nominee under the said policy. The policy-holder-the husband of the complainant dies on 17.6.1989 and consequently the complainant made a claim with the opposite party-Insurance Company for the payment of the assured money. The opposite party did not make the payment of the said assured sum, but it only asked the complainant to take the paid-up value of the policy. So the complainant filed the complaint seeking the said assured amount with interest thereon.

2. THE opposite party-Insurance Company filed its objection and admitted the fact that the husband of the complainant had obtained the Life Insurance Policy for a sum of Rs. 30,000/- and the complainant was the nominee under the said policy. THE opposite party further averred that the said policy had lapsed for non-payment of premium which came to be revived on 29.10.1986. But at the revival of the said policy, the life assured had suppressed the material facts of his disease with which he was suffering since long prior to the date of revival of the policy. THE life assured was suffering from diabetes and other heart ailments and he had consulted the medical men and had taken treatment. THE life assured did

not reveal all these facts at the time of revival of the policy in the month of October 1986 and so the complainant was not entitled for the assured sum and she was entitled only for the paid-up value of the policy. THE opposite party on the basis of these averments sought the complaint to be dismissed. During enquiry, the complainant filed her affidavit and the Branch Manger of the Insurance Company filed his affidavit. The District Forum, on consideration of these materials held that the opposite party-Insurance Company committed deficiency in service and it was negligent in not paying the assured amount to the complainant and in that view directed the opposite party to pay the assured amount of Rs. 30,000/- with interest thereon to the complainant.

We have called for the records and received. We have heard the learned Counsel for the parties and also perused the records.

3. IT is not disputed that the husband of the complainant had obtained a life insurance policy for a sum of Rs. 30,000/- and the complainant was the nominee under the said policy. IT is also not in dispute that the policy had lapsed due to non-payment of premium in the year 1986, but it came to be revived in the month of October 1986. The husband of the complainant died in the month of June 1989. It is the case of the opposite party-Insurance Company that the husband of the complainant had suppressed the material facts that he was suffering with certain diseases at the time of revival of the policy in the year 1986 and the complainant is not entitled for the assured amount. It is for the opposite party-Insurance Company to establish that the husband of the complainant had not disclosed his condition of health when the policy was revived in the month of October 1986. The opposite party did not lead any evidence. The District Forum, even afforded sufficient opportunity to the opposite party to lead evidence, but the opposite party failed to lead any evidence in this regard. The order sheet maintained by the District Forum, dated 24.11.1992, reads as under : "24.11.92 - Case taken up on a memo filed by the complainant''s Advocate as the Advocate, Shri M.Z. Ahmed has no objection. Written statement filed by the opposite party and the documents, evidence by affidavits. Call on 3.12.1992."

The order sheet dated 3.12.92, reads as under : "3.12.92 - The complainant filed his rejoinder and affidavit, through his Advocate Sri S.M. Deshpandey, Advocate. Sri M.Z. Ahmed seeks time to lead evidence of his side. Though such a practice is not expected even then the time is granted till 9.12.1992."

The complaint was taken up on 14.12.92. But even on that day, the opposite party did not lead any evidence. It was adjourned and posted on 17.12.92. The order sheet dated 17.12.1992, reads as under : "17.12.92-The complainant''s Advocate is present. The Assistant Branch Manager is present. Affidavit of the Branch Manger filed. For arguments, call on 5.1.93."

On 5.1.1993, it was heard and subsequently it was disposed of. Therefore, it is clear from the records that though sufficient opportunity was provided to the

opposite party, the opposite party failed to lead any evidence to prove the fact that the husband of the complainant had suppressed the material facts regarding his condition of health at the time of revival of the policy in the month of October 1986.

4. HAVING regard to this material on record, the District Forum, Bidar, held that the opposite party-Insurance Company committed deficiency of service in repudiating the claim of the complainant. HAVING regard to the material on record, we do not find any infirmity in the finding recorded by the District Forum, Bidar. There are no good grounds to interfere in the order dated 23.1.1993, recorded by the District Forum, Bidar, in Complainant No. 55.92. ORDER In the result, therefore, this appeal fails and it is dismissed. The parties are directed to bear and pay their own costs in this appeal. Appeal dismissed.

