(2002) 03 NCDRC CK 0070

In the National Consumer Disputes Redressal Commission

L.I.C. Of India APPELLANT

Vs

C.P.KACHEEBI RESPONDENT

Date of Decision : 04-03-2002

Acts Referred:

Citation : 2003 2 CPJ 108

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , B.K.Taimni J.

Final Decision : Revision Petition allowed

Judgement

1. THIS revision petition, filed by LIC emanates from the order passed by the State Commission setting aside the order of the District Forum and allowing the complaint filed by the respondent before us.

2. BRIEFLY the facts are that the complainant''s late husband had a life insurance policy from September, 1987, but had lapsed due to non-payment of premium in 1991, but was revived in January, 1992 after making the due payment. The insured died in April, 1992 due to tuberculosis. On repudiation of claim preferred by the complainant, the wife of the deceased, she approached the District Forum who after hearing both the parties and appreciating the evidence/material dismissed the complaint on the ground that the deceased concealed information about his suffering from tuberculosis at the time of renewal of policy. On appeal being filed by the respondent/complainant, the State Commission allowed the appeal on the ground that there has been no violation under Section 45 of the Insurance Act. It is against this order that the revision petition has been filed. It was argued by the learned Counsel for the petitioner that at the time of renewal of policy in 1991, the deceased had replied in ''negative'' to the question, "have you suffered from/or are you suffering from (1) Asthma, tuberculosis or any other disease of lungs" ? This amounted to concealment of information, which violates the terms of policy, hence the repudiation by the petitioner Corporation. On the other hand the learned Counsel for the respondent/complainant wanted us to see the provisions of Section 45 of Insurance Act and relying upon it wanted to dismiss the revision petition.

It is an admitted fact that the policy of the deceased had lapsed in 1991 and he had to fill in the questionnaire afresh before renewal in November, 1991 and he answered in negative to his suffering from tuberculosis. It is also an admitted fact that the insured died of tuberculosis in April, 1992. Section 45 of the Insurance Act provides that life insured, after the expiry of two years from the date it is effected, cannot be called into question on the ground that the statement made in the proposal for insurance was inaccurate or false unless the insurer shows such statement was a material matter or suppressed facts or the policy holder knew at the time of making the statement to be false, or suppressed facts it was material to disclose. There are two certificates on record, one dated 8.10.1998 and the other dated 11.11.1992 both relating to the deceased and clearly stating that the deceased was suffering from/under treatment for tuberculosis. Section 45 of the Insurance Act would have had any relevance in this case if the policy had not lapsed and at the renewal would not have involved filling in the questionnaire afresh. A bold and clear answer in ''No'' to the question of his having asthma or tuberculosis'', and his having died on account of tuberculosis within five months do not leave us much choice but to believe that it was a wilful concealment of information on his part of having tuberculosis. It is too well-known to need reiteration that nobody develops TB suddenly i.e. after November, 1991 in this case, and dies of it within five months. That is not what medical history states/supports.

3. WE are inclined to agree that this was wilful concealment of information while filling in the form on 16.11.1991. It is widely held that insurance is a contract of good faith; whoever violates that pays a price for that. WE are unable to sustain the order of the State Commission and is set aside. Petitioners are however directed to pay the paid up value of the policy along with interest @ 12% p.a. within a period of four weeks, which in any case should have been paid. No order on costs. Revision Petition allowed.