(2015) 03 NCDRC CK 0159

In the National Consumer Disputes Redressal Commission

LIC OF INDIA APPELLANT

Vs

G Sahsi Kalavathamma RESPONDENT

Date of Decision : 11-03-2015

Acts Referred:

Citation : (2015) 03 NCDRC CK 0159

Hon'ble Judges : K.S.CHAUDHARI J.

Final Decision : Petition allowed

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 5.12.2013 passed by the A.P. State Consumer Disputes Redressal Commission, Hyderabad (in short, ''the State Commission'') in Appeal No. 871 of 2012 G. Sahsi Vs. Life Ins. Corpn. of India by which, while allowing appeal, order of District forum dismissing complaint was set aside.

2. BRIEF facts of the case are that complainant/respondent''s husband obtained two life insurance policies on 20.8.2010 and 19.8.2011 for Rs.3,49,200/ - and Rs.1,00,000/ - respectively. Insured died on 19.8.2011. Claim was lodged by complainant being nominee of assured with OP, but OP/petitioner by letter dated 31.03.2012 repudiated claim on account of false information regarding his health and surgery. Alleging deficiency on the part of OP, complainant filed complaint before District Forum. OP resisted complaint and submitted that insured suppressed the true facts of his health and previous hospitalization. It was further submitted that insured underwent surgery at Sri Sai Nursing Home, Kadapa and remained in -patient from 4.1.2009 to 12.01.2009. Again, insured underwent another surgery for hip joint pain at Global Hospital, Hyderabad and remained there as in -patient from 12.11.2009 to 17.11.2009. It was further submitted that on ground of suppression of material facts claim was rightly repudiated and prayed for dismissal of complaint. Learned District Forum after hearing both the parties dismissed complaint. Appeal filed by complainant was allowed by learned State Commission vide impugned order against which, this revision petition has been filed.

3. HEARD learned Counsel for the parties and perused record. Learned Counsel for the petitioner submitted that inspite of proof of suppression of material facts and false answers in proposal form, learned State Commission committed error in allowing appeal and allowing compliant, hence, revision petition be allowed and impugned order be set aside. On the other hand, learned Counsel for the respondent submitted that as there was no nexus between the treatment and cause of death, order pass by learned State Commission is in accordance with law; hence, revision petition be dismissed.

4. COMPLAINANT has not furnished any document by which cause of death of insured can be inferred. Learned State Commission has observed in the order that OP should have conducted an investigation about cause of death of the insured before repudiation of claim. This observation is apparently not correct because complainant was under an obligation to adduce evidence regarding cause of death and to show that there was no nexus between the cause of death and previous treatment.

5. PERUSAL of proposal forms signed by insured clearly reveals that he has given following answers to questions: a) During the last five years did you consult a Medical practitioner for any ailment requiring Treatment for more than a week? No b) Have you ever been admitted to any hospital or nursing home for General check -up, observation treatment or operation? No c) Have you remained absent from place of work on grounds of health during the last five years No What has been your usual state of health Good

6. PERUSAL of record further reveals that as per discharge summary of Global Hospital insured was operated 10 months ago for right femur and again he was admitted on 12.11.2009 in Global Hospitals and surgery was performed on 13.11.2009 and he was discharged on 17.11.2009. Thus, it becomes clear that he has given wrong answers about previous treatment, hospitalisation and absence from work and regarding health in proposal forms as indicated above.

7. HON ''ble apex Court in Civil Appeal No. 5322 of 2007 P.C. Chacko and Anr. Vs. Chairman, Life Insurance Corporation of India and Ors. dismissed claim on the ground of false answers/suppression of facts to the questions as under: (a) Did you ever have any operation, accident or injury? The answer was No (b) Have your remained absent from place of your work on ground of health during the last 5 years ? To which answer was No (c) What has been your state of health? The answer was good

8. IN the light of aforesaid judgment of Hon''ble Apex Court petitioner has not committed any deficiency in repudiating claim and learned District Forum rightly dismissed complaint, but learned State Commission committed error in allowing appeal and allowing complaint.

9. LEARNED Counsel for the respondent placed reliance on judgement of this Commission in Life Insurance Corporation of India Vs. Smt. Rupinder Kaur, 2011 2 CPR 30 in which it was observed that fracture is not a disease and it was

further observed that date of fracture was not coming on record and by the time policy was taken, the assured had fully recovered. Fracture may not be a disease, but there is nothing on record to infer that assured had fully recovered before filling proposal forms for both the policies and has not placed cause of death on record. In such circumstances, aforesaid judgment does not help to the respondents.

10. IN the light of above discussion, revision petition is to be allowed and impugned order is liable to set aside.

11. CONSEQUENTLY , revision petition filed by the petitioner is allowed and impugned order dated 5.12.2013 passed by the State Commission in Appeal No. 871 of 2012 G. Sahsi Vs. Life Ins. Corpn. of India is set aside and order of District Forum dated 28.9.2012 dismissing complaint is affirmed with no order as to costs.