(2007) 06 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

LIC OF INDIA APPELLANT

Vs

Kuldeep Kaur RESPONDENT

Date of Decision : 19-06-2007

Acts Referred:

Citation : 2007 4 CPJ 335

Hon'ble Judges : R.C.Kathuria , Banarsi Das , Shakuntla Yadav J.

Final Decision : Appeal dismissed

Judgement

1. -CHALLENGE in this appeal is to the order dated 11.9.2003 passed by the District Consumer Disputes Redressal Forum, Ambala whereby while accepting the complaint of the respondent-complainant following directions have been given to the appellant-opposite parties: "(i) To pay Rs. 1,00,000 with interest @ 10% p.a. w.e.f. 7.7.2001 when the basic claim was paid till its realisation, (ii) To pay Rs. 5,000 for harassment and mental agony, (iii) To pay Rs. 1,000 for costs of proceedings."

2. PUT shortly, the facts of the case are that Bahadur Singh husband of the complainant had taken Life Insurance Policy No. 171612502 for a sum of Rs. 1,00,000 with double accident benefits from the opposite parties. The policy commenced from 28.6.1998. The mode of the premium was half yearly. On account of non-payment of the premium due on 28.12.2000 the policy in question lapsed. Said Bahadur Singh met with an accident on 1.4.2001 and died on 4.4.2001. Before his death the policy in question was revived on 3.4.2001. The complainant being nominee and widow of the deceased put up the insurance claim with the opposite parties. The opposite parties made the payment of the basic sum assured along with bonus amounting to Rs. 1,19,600 but denied the double accident benefits as per letter dated 10.9.2001 on the plea that on the date of accident, the policy in question was lying lapsed and was not enforced. Aggrieved by the action of the opposite parties the complainant invoked the jurisdiction of the District Forum by filing the present complaint claiming the accident benefit amount equal to the sum assured. The opposite parties

contested the complaint. They justified the repudiation on the ground that the policy in question was revived on 3.4.2001 after the accident and for that reason double accident benefit under the policy could not be extended to her. Accordingly, it was prayed that the complaint merited dismissal. The District Forum on the basis of the above pleadings of the parties and evidence adduced on record found no substance in the stand of the opposite parties and while accepting the complaint issued the directions as per order dated 11.9.2003 noticed above. It is against this order the present appeal has been filed. Learned Counsel representing the parties have been heard at length. There is no factual dispute in this case. The entire controversy depends upon the interpretation of Clause 10.2 of the policy conditions which reads as under: "10.2 Accident benefit- If at any time when this policy is in force for the full sum assured, the life assured before the expiry of the period for which the premium is payable or before the policy anniversary of which the age near birthday of the life assured is 70, whichever is earlier, is involved in an accident resulting in either permanent disability as hereinafter defined or death and the same is proved to the satisfaction of the Corporation agrees in the case of- (b) Death of the life assured: to pay an additional sum equal to sum assured under the policy................."

On the basis of the above policy clause it has been vehemently urged by the learned Counsel for the appellant-opposite parties that as the accident had taken place on 1.4.2001 and it is a pre-condition of the above stated clause that policy should be enforced not only on the date of accident but also on the date of death and this condition has not been fulfilled by the claimant. It was also submitted by him that the District Forum was duty -bound to adhere to the terms and conditions of the policy and for that reason the order of the District Forum deserved to be set aside. In support of the stand taken reliance was placed by him on the case L.I.C. of India v. Ramesh Chandra, II (1997) CPJ 45 (NC)=1997 (2) Con.LT 474. Reference was made to the observations made in para No. 5 of the order which read as under: "In addition to the sum assured under the policy together with accrued bonus payable on death, the life assured was entitled to accidental benefit/disability benefit on account of accident vide Clause 10 of the policy bound reading as follows- Accident Benefit: If at any time when this policy is in force for the full sum assured the life assured, before the expiry of the period for which the premium is payable or before the policy anniversary on which the age nearer birthday of life assured is 70 whichever is earlier, is involved in an accident resulting in either permanent disability as hereinafter defined or death and the same is proved to the satisfaction of the Corporation, the Corporation agrees in the case of- (a) Disability to the assured- (i) to pay in monthly instalments spread over 10 years and additional sum equal to the sum assured under this policy. If the policy becomes a claim before the expiry of the said period of 10 years, the disability benefit instalment which have not fallen due will be paid along with the claim, (ii) to waive the payments of future premiums.'' The maximum aggregate limit of assurance under all polices on the same life to which benefits (i) and (ii) above apply shall not in any event exceed Rs. 5,00,000. If there be more policies than one and of the total assurance exceeds Rs. 5,00,000 the benefits shall apply to the first Rs. 5,00,000 sum assured in order of date of the policies issued. The waiver of premiums shall extinguish all options under this policy and also the benefits covered by para (b) of this clause except as to such assurance, if any, as exceeds the maximum aggregate limit of Rs. 5,00,000 and which have been kept in force by continued payment premiums. 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 be sufficient to do or follow to earn or obtain any wages, compensation or profit. Accidental injuries which independently of all other causes and within 120 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 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." The issue in the above mentioned case was entirely different because a dispute arose in that case was whether the amputation or right hand suffered by the complainant was specified event and constitute disability entitled to an accident benefit under Clause 10(a) of the policy bond. In this case the controversy is entirely different as noticed above.

3. BY now it is well settled that if there is any ambiguity in terms of the policy, it should be construed in favour of the insured. In this case reading of Clause 10(2) of the policy leaves no manner of doubt that liability of the insurer to pay the sum assured arises in two eventualities namely that the accident suffered by the life assured should either result in permanent disability as hereinafter defined or death. In the event of death of life insured, the insurer has to pay equal sum assured under the policy. Manifestly, in this case the question of claim on account of permanent disability does not arise. The claim put up by the complainant is on account of death of her husband. Therefore, the operation of the clause has to be seen on the date of death of the insured. In this case on 4.4.2001 when the insured had died, the policy was in force as it stood revived on 3.4.2001 and as death had resulted because of the injuries suffered in the accident. Therefore, the opposite parties could not avoid the liability simply because on the date of accident the policy stood lapsed. The construction which is sought to be put up from the side of the opposite parties while denying the claim of the complainant that both on the date of accident as well as on the date of death, the policy taken by the insured should be enforced does not flow from the Clause 10.2 of the terms of the policy. The controversy is not res integra. In case of Life Insurance Corporation of India v. Jokham Lal, I (1998) CPJ 62, it was observed as under: "The insurance policy being a double benefit one either the claimant will be entitled to both the claims i.e. on account of death as well as the accident or to none. The plea taken by the LIC that it should revived by paying the

premium two days before the death only for the purposes of one benefit and not for the other is not legally tenable. Under the circumstances, we do not agree with the learned Counsel for the appellant-LIC and dismiss the appeal. The order passed by the learned District Forum, Ambala stands upheld."

4. IN other case, Life INsurance Corporation of INdia v. K.V. Natarajan, II (2003) CPJ 668. The facts were that INdirani daughter of the complainant had taken Endowment Assurance Policy with profits with accident benefits for a sum of Rs. 50,000. The policy commenced from 28.3.1993 for a period of 25 years and was to mature on 28.3.2018. The premium payable under the policy was quarterly on 28th of every quarter. The grace period of 30 days was also provided for payment of the quarterly premium. The quarterly premium payable on 28.6.1995 was not paid on or before 28.6.1995. It was also not paid during the grace period to be 27.7.1997 and factually it was paid on 9.9.1995. The INsurance Company accepted the claim of the premium and revived the policy. The assured met with an accident of snake-bite on 8.9.1995 and expired on 9.9.1995. When the complainant had put up the claim with the INsurance Company on 22.9.1995, the opposite parties only made the payment of Endowment INsurance with profits in the sense of making a payment of Rs. 59,076, but it did not honour the claim in relation to the accident benefit and was repudiated as per repudiation letter dated 9.2.1996 on the ground that on the date of snake-bite on 8.9.1995 the quarterly premium due on 28.6.1995 had not been paid and the policy was totally lapsed without any value and was not enforced for the sum assured. They too relied upon the Clause 10.2 of the accident policy. The above stand of the insurance policy was not accepted by the Hon''ble State Commission, by making the following observations-- "On reading Clause 10(2) of the policy under Ex. B2, the opposite party INsurance Company would, we rather feel, unwittingly state that the policy was in force for the death claim but not in force for the accident benefits. This sort of an individualised distinction they had made in their repudiation letter cannot at all be sustained on the face of the parameters laid down by Clause 10.2 for the claim of the accident benefit. We have already referred to the parameters prescribed for the successful claim of the accident benefits. One of the parameters is that the policy must be in force for the full sum assured. IN the case on hand, the policy, taken which would have otherwise got elapsed by the non-payment of the quarterly premium due on 28.6.1995 did not lapse as a consequence of the payment of the premium due with all penalty by the complainant and accepted by the opposite party, INsurance Company. The life assured namely INdirani admittedly got involved in the accident of a snake-bite on 8.9.1995. She however died at 4 p.m. on 9.9.1995. The next premium to be due and payable after the revival of the policy on 9.9.1995 is on or before 28.9.1995. Such being the case, the accident of snake-bite to the victim/ deceased/life assured INdirani on 8.9.1995 had happened before the expiry of the period for which the premium is payable under the policy of insurance namely 28.9.1995 and this is the first period as had been referred to in Clause 10.2. The other period referred to is relatable to the period before the policy

anniversary on which the age nearer the birthday of the life assured is 70. IN the case on hand, the life assured INdirani died prematurely on 9.9.1995 at the age of 26. The event of the anniversary of the policy was to happen in the year 1996, on 28.3.1996. Such being the case, the second period prescribed cannot at all be stated to be earlier than the first period prescribed. The first period prescribed being 28.9.1995 and the death of the assured having happened as a consequence of the accident of snake bite on 9.9.1995, the life assured is entitled to have the claim of the accident benefit when especially there was no dispute at all as respects the death of the life assured as a consequence of snake-bite as evidenced by the Certificate dated 23.12.1995 issued by Sri Ramakrishna Hospital, Coimbatore." In Life Insurance Corporation of India & Ors. v. Luxmi Gulati, I (2006) CPJ 131, it was observed that if the policy stood revived for the purpose of normal death it also stood revived if the death had occurred due to accident and for that reason the order of allowing the complaint by the District Forum was upheld. In the face of the above stated position, there is hardly any merit in the stand taken from the side of the appellant-opposite parties. The District Forum was fully justified in accepting the complaint under the circumstances of the case.

5. FOR the aforesaid reasons, there is no merit in the appeal and the same is consequently dismissed. Appeal dismissed.