(2004) 07 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

LIC OF INDIA APPELLANT

Vs

MANJU DEVI RESPONDENT

Date of Decision : 14-07-2004

Acts Referred:

Citation : 2004 4 CPJ 826 : 2005 1 CPR 252

Hon'ble Judges : D.P.S.Choudhary , Asma Ahmad J.

Final Decision : Appeal dismissed

Judgement

1. APPELLANT is the O.P. (Life Insurance Corporation of India) which has preferred the appeal against the order dated 28.2.2003 passed by District Forum, Bhojpur at Ara in Complaint Case No. 132/2002 directing the appellant to pay the complainant the double accident benefit claim of Rs. one lac with interest thereon @ 9% per annum and further allowed cost of Rs. 1,000/-.

2. THE brief fact of the case is that complainant who is widow of the life assured alleged in the complaint petition that her husband was assured under the policy on his life for Rs. one lac. Her husband died while driving a bus on 23.11.2000. He was a bus driver. She made claim with the L.I.C. under the policy but she received the sum assured with bonus after a period of one year but the L.I.C. did not pay the double accident benefit claim in spite of all efforts. Accordingly she filed the complaint and claimed that there is deficiency in service of the L.I.C. and made a claim of Rs. one lac as double accident benefit claim, Rs. 50,000/- as compensation for harassment and Rs. 2,000/- as cost of litigation. The O.P. appeared and filed written statement. Its main contention was that from the F.I.R. No. 113/2000 dated 23.11.2000 registered at the instance of one Maheshwar Singh with Charpokhri P.S. it appears that police registered a case under Sections 279, 337, 338 and 304, I.P.C. and upon investigation it was found that the bus driver (life assured) was driving the vehicle rashly and negligently which caused the accident. The police submitted final form as there was also a death in the accident. It is also the case of the O.P. that complainant made a delay in submission of the required documents relating to the accident and death

of the life assured and upon receipt of the documents, the L.I.C. paid the complainant on 11.2.2003. As per terms of Clause 10 of the policy bond, double accident benefit claim is not payable where the death was caused due to an illegal act committed by the life assured. Since the life assured was charged with rash and negligent driving, therefore it was an illegal act and he was not entitled for the benefit under the double accident benefit scheme. On this ground this part of the claim was repudiated and the complainant was paid Rs. one lac with bonus, which was the amount of insurance.

The District Forum after hearing the parties held that most of the fact in the case is admitted. The only point for decision is whether repudiation of the claim of double accident benefit claim of the complainant by the L.I.C. is justified.

3. THE complainant''s husband Tej Pratap Singh (life assured) had insurance policy of Rs. one lac with double benefit of accident claim. Admittedly, he died in the bus accident of which he was himself a driver. THE District Forum did not accept the contention of the L.I.C. that on the basis of F.I.R. and the final form the complainant is not entitled to get double benefit as per terms of the policy of her husband. Whether he was driving rashly and negligently is a sub judice matter and only on the basis of F.I.R. and final form it was not proper for the L.I.C. to come to the conclusion that there was violation of the Clause 10 of the policy bond. His rash driving will not come under the provision of illegal act as mentioned in Clause 10 of the policy bond. THE District Forum accordingly held that repudiation of the claim of this part of the policy is illegal and it amounts to deficiency on the part of the L.I.C. The learned Lawyer appearing on behalf of the appellant submitted that double accident benefit is the privilege attached to the policy and is payable upon subjective satisfaction of the O.P. The District Forum did not appreciate the terms of Clause 10 of the policy bond because rash and negligent driving is an illegal act and it was committed by the life assured. The police after investigation submitted final form mentioning that accident was due to negligent and rash driving of the driver.

4. THE learned Lawyer appearing on behalf of the respondent-complainant submitted that on the basis of the police report it cannot be held legally that life assured was driving the bus negligently or rashly. THEre is no other evidence collected by the L.I.C. in support of this contention. THEre is no affidavit of local persons who had seen the accident and none of the local witnesses has supported the contention of the L.I.C. On the fact mentioned in the F.I.R. and the police investigation report it cannot be said that life assured since deceased has committed any illegal act. Admittedly, he is a bus driver and in accident he died, as such, he is entitled for double accident benefit. THE repudiation of this part of the L.I.C. is illegal. THE order of the District Forum is in accordance with the law. We have heard the parties and we are of the view that there is substance in the contention of the respondent-complainant. The L.I.C. has repudiated this part of the claim of double accident benefit on the basis of the F.I.R. and final form submitted by the police. This was not the legal evidence collected by the L.I.C. in

support of its contention that life assured was driving the vehicle rashly and negligently. There is no evidence of local witnesses in support of the LIC''s contention. We have carefully gone through the order of the District Forum and of the view that it is in accordance with the provision as contained under policy bond. There was no violation of Clause 10 of policy bond because on record there is no legal evidence to come to the conclusion that act of policy holder (deceased) was an illegal act when he was driving the bus, which met with an accident. In the fact and circumstances, we do not find any merit in this appeal, which is accordingly dismissed, and the impugned order is hereby confirmed. The appellant-L.I.C. is directed to pay Rs. one lac as under double accident benefit scheme to the complainant along with 9% interest from the date she submitted the claim papers till the date of payment within three months from the date of this order. The District Forum has rightly rejected the claim of the complainant with regard to payment of compensation because interest has already been awarded in her favour. The litigation cost of Rs. 1,000/- is also confirmed. Appeal dismissed.

