
(2005) 03 NCDRC CK 0035

In the National Consumer Disputes Redressal Commission

LIC OF INDIA

APPELLANT

Vs

MEMUNA

RESPONDENT

Date of Decision : 23-03-2005

Acts Referred:

Citation : 2006 1 CPC 742 : 2006 2 CPJ 86

Hon'ble Judges : K.S.Gupta , S.N.Kapoor J.

Final Decision : R.P.allowed

Judgement

1. HEARD.

2. THIS revision is directed against an order passed by the C. No. 9451/05 Haryana State Consumer Disputes Redressal Commission, Chandigarh dismissing the appeal against the order of the District Forum directing the petitioner/respondent to pay the amount of Rs. 3.00 lakhs payable under the insurance policy to the widow of the insured and nominee in the policy, within a period of one month from the date of the order dated 20.4.1988 failing which to pay interest @ 15% p.a. as well on the said amount to the nominee of the deceased. The deceased Dakaria had taken a policy on 28.7.1994. The insured did not deposit some of the instalments in time but subsequently deposited amount of Rs. 3,028 towards premiums for the period from 28.7.1995 to 28.4.1996 plus interest of Rs. 103 on it on 4.5.1996. The policy was revived on making the payment of unpaid premiums and interest thereon. But before payment of premium amount etc. from 6.2.1996 to 20.2.1996 the deceased insured remained hospitalized in All India Institute of Medical Sciences, New Delhi. The insured had not disclosed his illness and hospitalization while sending proposal for getting the insurance policy revived in April-May, 1996. The insured died on 27.7.1996. On death of insured when the complainant claimed the amount of insurance under the policy, the Insurance Company repudiated the claim. The complainant filed complaint and claimed the amount under the policy.

The grievance of the petitioner against the impugned order is that non-disclosure of hospitalization of the deceased husband of the complainant amounted to

suppression of material fact and the revival of the policy was subject to the continued insurability of the insured at the same level of risk. The changed circumstances obviously had not been brought to the notice of the respondent and he denied material question by mentioning "No" against them in the proposal. As such the complainant was not entitled to get any claim. It was pointed out that the complainant remained admitted in the hospital from 6.2.1996 to 20.2.1996 for treatment of renal disease in AIIMS as was evident from the certificate of the hospital treatment. It is submitted that the view taken by the District Forum and the State Commission could not be justified. The District Forum had taken an extremely indulgent view that if the revival of the policy had taken place it would have the effect of continuity of the policy. When the policy was first obtained the complainant was not having such problem. Accordingly, in case any disease befalls during the currency of the policy, there was no question of any concealment.

3. THE learned Counsel for the respondent/O.P. referred to the case of Biman Krishna Bose v. United India Insurance Co. Ltd., III (2001) CPJ 10 (SC)=IV (2001) SLT 558. In that matter, the policy was a medi-claim policy and not the life insurance policy. Further, the Hon'ble Supreme Court has observed that in matters of contractual relations the State and its instrumentalities are enjoined with the obligation to act with fairness and, in doing so, can take into consideration only the relevant materials. In the present case, what the Supreme Court found was that arbitrariness was writ large in the actions of the respondent Company. When it refused to renew the mediclaim policy of the insured on the ground of his past conduct i.e., having gone into litigation for payment of his claim against the respondent company. THE judgment of Biman Krishna Bose (supra) would not be applicable for that mater was decided on its own facts. THE question of continued insurability of the same standard without any increased risk was not before the Supreme Court. As such it would not be of any help. Since it could not be disputed that the policy lapsed on 28.7.1995 and remained lapsed in the relevant period 6.2.1996 to 20.2.1996 of hospitalization insurability on the same level of risk in health would not continue. The fact of suppression of material fact of hospitalization was writ large. No doubt, the revival may amount to continuity of the policy for all purposes except in cases like the present case, if during the lapse of policy, the deceased remained hospitalised indicating increased level of risk insurability.

4. IN view of the aforesaid discussion, this Commission has no inhibition in accepting the revision and allowing the same. The complaint is dismissed. The revision petition is allowed accordingly. Parties are left to bear their own cost. R.P. allowed.