
(2009) 03 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

L.I.C. Of India

APPELLANT

Vs

RAM NARAYAN YADAV

RESPONDENT

Date of Decision : 02-03-2009

Acts Referred:

Citation : 2009 0 NCDRC 28 : 2009 2 CPJ 5

Hon'ble Judges : Ashok Bhan , B.K.Taimni J.

Advocate : Ashok Kashyap , V.K.Biju

Judgement

1. LIFE Insurance Corporation of India (hereinafter referred to as petitioner for short) and Another, have filed this Revision Petition against the Order dated 14.05.2004, passed by the State Consumer Disputes Redressal Commission, Patna, Bihar (hereinafter referred to as the State Commission for short) by which the State Commission has dismissed the Appeal filed by the petitioner, thus, upholding the Order passed by the District Consumer Disputes Redressal Forum, Katihar (hereinafter referred to as the District Forum for short). Shortly stated, the facts of the case are: -

2. ONE Anil Kumar Yadav, submitted a proposal form at Madhepura Branch Office of L.I.C. on 31.03.1990 for taking life insurance policy in the sum of Rs.5,00,000/- under table and terms 75-20. Proposer was the resident of Madhepura, Katihar. He was 26 years of age. Yearly premium was Rs.31,440/-. The premium was to be paid on or before 28th of March every year. The Proposer opted to secure double accident benefit and extended premium permanent disability benefit. He nominated his father-respondent herein, to receive the payment in case he died prematurely. The policy commenced from 28.03.1990. The life insured paid premium for the next year on 28.03.1991. Next premium was due on 28.03.1992. The policyholder sent a cheque dated 24.04.1992 for the premium due for the third year. The said cheque was issued under the seal of M/s Chanchal Construction Pvt. Ltd. and the same was drawn on State Bank of India, Katihar. The petitioner sent the said cheque for collection on 25.04.1992. The said cheque was returned to the petitioners Madhepura Branch by the Bank

in the month of September, 1992 with the remark signing partner reported dead. It was revealed that the life assured was killed on 27.08.1992 due to firearm injuries at Katihar. The news of killing was reported in various newspapers. Respondent being the nominee of the life assured submitted the claim under the policy. Petitioner made inquiries and found that the bank account no. 13/43881 of M/s Chanchal Constructions and Company in the State Bank of India, Katihar from which cheque no. 766579 dated 24.4.1992 for the premium due on 28.03.1992, was issued, did not have sufficient funds in the said account between 24.02.1992 to 25.02.1993. According to the respondent, the cheque could not even otherwise be not encashed, as the life assured had issued the cheque knowing well that the said cheque could not be honoured because of insufficiency of funds. In these circumstances, as no valid payment of due premium was offered by the life assured, the policy had lapsed on 28.04.1992. As per Non-Forfeiture Regulation, if premium for three years had been paid, then, the policy would not have been wholly valid but would have subsisted as paid-up policy for a reduced sum payable on the date of maturity or on the life assureds premature death. That under the terms of the policy, the respondent was not entitled to the payment of any amount but keeping in view the relaxation Clause 4.2 of the Policy Servicing Manual No.11, the respondent was entitled to payment of half of the amount assured and, accordingly, petitioner sent a cheque of Rs.2,18,000/- which was duly encashed. Respondent, being dissatisfied with the settlement made by the petitioner, filed a complaint before the District Forum. District Forum allowed the complaint and directed the petitioner to pay a sum of Rs.2,50,000/- along with the bonus due to the respondent and further directed to pay a sum of Rs.31,440/- which was earlier wrongly deducted at the time of part payment.

Petitioner being dissatisfied with the Order passed by the District Forum filed an Appeal before the State Commission. The State Commission dismissed the Appeal and affirmed the Order passed by the District Forum and directed the petitioner to pay the remaining amount of Rs.2,50,000/- to the complainant with bonus as admissible.

3. BEING dissatisfied by the Order passed by the Foras below, the present Revision Petition has been filed. Counsel for the petitioner by referring to the Non-Forfeiture Regulations, contended that though the respondent was not entitled to any amount but keeping in view the relaxation under Clause 4.2 of the Policy Servicing Manual No.11, the respondent was entitled to get half of the sum assured. The petitioner had rightly settled the claim of the respondent by agreeing to pay Rs.2,50,000/-. That the Foras below have erred in ordering the payment of entire assured amount of policy to the respondent. We have heard the Counsel for the parties at length. Non-forfeiture Regulations reads as under: - Non-forfeiture Regulations: If after at least three full years premium have been paid in respect of this policy, any subsequent premium be not duly paid, this policy shall not be wholly valid, but shall subsist as a paid-up policy for a reduced sum payable on the Date of Maturity or at the Life Assureds prior Death. The

amount of paid-up assurance for integral number of years premiums paid will be calculated as per Table given below. The policy so reduced shall thereafter be free from all liability for payment of the within mentioned premium but shall not be entitled to participate in future profits. The existing vested bonus additions, if any, will remain attached to the reduced paid-up policy.

Notwithstanding what is above sated, if after at least three full years premiums have been paid in respect of this policy, any subsequent premium be not duly paid, in the even of the death of the Life Assured within six months from the due date of the first unpaid premium, the policy moneys will be paid as if the Policy had remained in full force after deduction of (a) the premium or premiums unpaid with interest thereon to the date of death on the same terms as for revival of the policy during such period, and (b) the unpaid premiums falling due before the next anniversary of the Policy. Notwithstanding what is above stated, if after at least five full years premiums have been paid irrespective of this Policy, any subsequent premium be not duly paid, in the event of the death of the Life Assured within 12 months from the due date of the first unpaid premium, the policy moneys will be paid as if the policy had remained in full force after deductions of (a) the premium or premiums unpaid with interest thereon to the date of death on the same terms as for revival of the Policy during such period, and (b) the unpaid premiums falling due before the next anniversary of the Policy. (Emphasis supplied)

4. THE Non-forfeiture Regulations will not apply to the policy in question as the third premium had not been paid and, consequently, the policy had lapsed. But in terms of Clause 4.2 of Policy Servicing Manual No. 11, relaxation in the matter of settlement of death claim under policies where premiums paid for full two years, petitioner has agreed to pay 50% of the assured amount. As Anil Kumar Yadav died after five months of the unpaid premium, the respondent was entitled to get half of the sum assured. Clause 4.2 of the Policy Servicing Manual No.11, reads as under: - 4.2 Relaxation in the matter of Death Claim under Policies where Premiums paid for full two years. a) If the death of the Life Assured were to occur after expiry of Days of Grace but within three months of the due date of the first unpaid premium, consideration of claim to the extent of the full Sum Assured together with the declared bonuses subject to recovery of the unpaid premiums. b) If the death of the Life Assured were to occur between three and six months of the due date of the first unpaid premium, consideration of claim to the extent of half the Sum Assured; and c) If the death of the Life Assured were to occur between six months and one year of the due date of the first unpaid premium, consideration of claim to the extent of a proportionate notional paid-up value on the basis of actual premiums paid. (Emphasis supplied) THE case of the respondent would neither fall under clause 4.2 (a) nor under 4.2 (c). It would fall under 4.2 (b) as Anil Kumar Yadav died after five months of the due date of the unpaid premium.

It is an admitted fact that the life assured had a policy of Rs.5,00,000/-. He paid

premium for two years. For the third year, the life assured had issued a cheque, which stood dishonoured and returned with the remark signing partner reported dead. Anil Kumar Yadav died on 27.08.1992, therefore, the policy was in lapsed condition due to non-payment of third premium. The petitioner allowed the claim of 50% of the sum assured in terms of Clause 4.2 (b) of the Policy Servicing Manual No.11. Respondent had received a sum of Rs.2,18,000/-. Petitioner had agreed before the State Commission that it is prepared to pay the balance amount of Rs.31,440/- which had been wrongly deducted by it to make it to 50% of the assured amount. The payment of 50% of the assured amount was an ex-gratia payment, although under the policy, the petitioner was not obliged to make any payment as the policy had lapsed. According to us, the Foras below had clearly erred in allowing the claim under the policy in its entirety. Even if it is assumed that the respondent had paid three premiums, even then, under Non-forfeiture Regulations, the policy would have subsisted as a paid-up policy for a reduced sum payable on the date of maturity or at the life assureds death. But in this case, as we have stated, the above insurance company had received premium only for two years and till the third premium was received by it, the Non-forfeiture Regulations will not apply. If at all, there is default, the default could be on of the bank which did not clear the cheque immediately on its presentation. But unfortunately, the complainant/respondent did not implead the State Bank of India as the party respondent.

5. ACCORDINGLY, we accept this Revision Petition, set aside the Orders passed by the Foras below and limit the claim of the respondent to half of the sum assured, i.e., Rs.2,50,000/-. Respondent has already received a sum of Rs.2,18,000/-. The petitioner is, therefore, directed to remit the balance sum of Rs.31,440/- to the respondent, if not already paid.

6. RESPONDENT, if so advised, may proceed against the State Bank of India for claiming the remaining half amount, for not encashing the cheque immediately on presentation, if permissible under law.