(2004) 05 NCDRC CK 0084

In the National Consumer Disputes Redressal Commission

L.I.C. Of India APPELLANT

Vs

RAM NARAYAN YADAV RESPONDENT

Date of Decision : 14-05-2004

Acts Referred:

Citation : 2005 1 CLT 663 : 2005 1 CPJ 257

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

Final Decision : Appeal dismissed

Judgement

1. O.P.-L.I.C., Madhepura Branch is the appellant which has preferred the appeal against the order dated 31.1.1995 passed by District Forum, Katihar in Complaint Case No. 121/94 directing the appellant-O.P. to pay a sum of Rs. 2,50,000/- only with due bonus to the complainant within a month from the date of the order and further directed to pay a sum of Rs. 31,440/- only which were earlier deducted at the time of part payment.

2. THE brief fact of the case is that one Anil Kumar Yadav submitted a proposal form at Madhepura branch office of L.I.C. on 31.3.1990 for affecting a L.I.C. policy on his life for a sum of Rs. five lacs under table and term 75-20. THE proposer was resident of Manihari, Katihar. He proposed to pay yearly premium of Rs. 31,440/- and as per proposal form he was aged 26 years at the time of filing of the form. He had not taken any policy prior to the proposal as mentioned in the proposal form. He further opted to secure double accident benefit and extended permanent disability benefit. He nominated his father-complainant on the basis of the statement made in the proposal form and accordingly Madhepura Branch of L.I.C. issued the policy in the name of Anil Kumar Yadav. THE policy commenced from 28.3.1990 in table and term 75-20 for a sum of Rs. five lacs. THE yearly premium was payable on 28th day of March every year for a sum of Rs. 31,440/. THE life assured paid premium upto 28.3.1991. THE premium due on 28.3.1992 was paid by the policy-holder vide a cheque dated 24.4.1992. THE cheque was issued under the seal of M/s. Chanchal Construction Pvt. Ld. drawn on State Bank of India, Katihar. THE cheque however stood dishonoured on

presentation by the Banker on the reason signing partner reported dead in September, 1992. THE cheque was received back by the Madhepura Branch of the Corporation through the State Bank of India, Katihar with dishonoured advice. Later on it appeared that life assured had died on 27.8.1992 due to firearms injury at Katihar. A claim for payment of the amount under the policy on the life of the deceased was lodged on Madhepura Branch of the L.I.C. THE L.I.C. on receipt of the dishonoured cheque a Bank statement of account No. 13/43381 of M/s. Chanchal Construction Company obtained which shows that from 24.2.1992 to 25.2.1993 at no point of time there was sufficient balance to honour the above cheque of Rs. 31,440/-. As stated the cheque was issued on 24.4.1992. In this view of the matter the Corporation found it an early death claim under the policy, which could not continue for three full years. In terms of the policy contract the policy was in a lapsed condition and in absence of three full years premium deposit the non-forfeiture regulation was also not available. As per policy contract if after atleast three full years premium have been paid in respect of a policy, any subsequent premium if not duly paid in the event of the death of the life insured within six months from due date of first unpaid premium the policy money will be paid as if the policy has remained in full force after deduction of the premium with interest thereupon. THE L.I.C. as per guideline No. 4-2 as contained in policy serving manual it was found that in case of the death of the life assured after atleast two full years premium have been paid, the claim may be considered to the extent of half the sum assured. However, there will be no deduction towards any unpaid premium due from before the date of death or thereafter within the policy year of death. THE policy payment will be in the terms of ex gratia basis and no double benefit is payable where the payment is made on exgratia basis. Thus the Corporation considered the payment of 50% of the sum assured and settled the claim on 30.11.1993. Accordingly discharge voucher was issued to the complainant for its execution (Annexure-1 to). However, under some mistake the L.I.C. deducted Rs. 31,440/- as premium amount from the half of the sum assured the payment of Rs. 2,18,560/- only was made to the complainant. THE complainant received the amount and signed the discharge voucher without any objection and received the same in full and final settlement. THE complainant after receipt of the above amount on 28.12.1993 filed a complaint on 28.6.1994 and he claimed Rs. 2,50,000/- as the remaining amount of the life assured policy. During the pendency of the complaint the complainant added Branch Manager, Katihar as party and a notice was also issued to the Branch Manager, Katihar but no notice was sent to Madhepura Branch, therefore, non-appearance on behalf of Madhepura and the matter was heard by the District Forum ex parte though written statement was made through post by Madhepura Branch stating the above facts. THE Corporation also made a discharge voucher for a sum of Rs. 31,440/-, which was deducted from the earlier amount under mistake. The main contention of the L.I.C. before us is that it is admitted fact that the life assured had a policy of Rs. five lacs since 28.3.1990. He paid premium for two years. For the policy of third year a cheque was paid by the life assured, which stood dishonoured on presentation with a note-signing partner reported dead by the Banker. On inquiry it was found that life assured died on 27.8.1992 due to firearms injury, therefore, the policy was in lapsed condition due to non-payment of the third premium. As such under the rule the L.I.C. allowed claim of 50% of the sum assured and settled the claim on 29.11.1993 as ex gratia payment of the policy. As per rule under such payment the benefit of accident could not be allowed. The nominee-complainant received the amount of Rs. 2,18,560/- and signed the discharge voucher as full and final settlement of the claim on 28.12.93 without any protest. Thereafter the complaint was filed claiming Rs. 2,50,000/-. The L.I.C. besides payment of the above amount was further ready to pay Rs. 31,440/-, the premium amount, which was wrongly deducted from Rs. 2,50,000/- (half of the policy amount). The District Forum has not considered that the policy was lapsed before the death of life assured for the laches on the part of the life assured and as per rule the nominee was entitled to claim only ex gratia payment to the tune of 50% of the sum assured which the L.I.C. has paid and accepted by the nominee without objection. Hence the present claim is not justified and not maintainable. The District Forum after considering the facts and material on record has held that L.I.C. has accepted that complainant is entitled for Rs. 2,50,000/- (half of the amount assured) and has further admitted that he has paid this amount to the claimant but wrongly Rs. 31,440/- which is only premium was deducted and L.I.C. was ready to pay this amount also. Therefore, the dispute is only with regard to half payment of the policy, i.e., Rs. 2,50,000/-. The District Forum relied on the policy bond and held that it is mentioned in the bond that if two annual premiums has been paid and thereafter policy holder dies the claimant under him is entitled to get the entire amount of the policy with bonus. Relying on this clause of the policy bond the District Forum directed the L.I.C. to pay the remaining amount of the policy, i.e., Rs. 2,50,000/- with bonus admissible on this amount and further directed to pay Rs. 31,440/- which the L.I.C. has already accepted for the payment.

At the time of argument the appellant did not file before us the copy of the policy bond which was filed before the District Forum and while passing the impugned order the District forum has relied on the clause mentioned in the policy bond that after payment of two annual premiums the policy holder dies, the claimant is entitled for the entire amount of the policy with admissible bonus. There is no material before us to disagree with this finding of the District Forum. The only contention of the L.I.C. that the policy holder must pay three annual premium before he is entitled for the amount of policy in entirety but there is nothing on record to substantiate this condition of the L.I.C.

3. IN the fact and circumstances, we are not in a position to accept the above contention of the L.I.C. that finding arrived at by the District Forum is bad and against the terms and condition of the policy bond. IN the result, we do not find any merit in this appeal, which is dismissed, and the impugned order is hereby confirmed. The L.I.C. is directed to pay the remaining amount of Rs. 2,50,000/- of the policy to the complainant-claimant with bonus as per admissible within

three months from the date of this order. The L.I.C. shall also pay Rs. 31,440/-, the annual premium, which it has wrongly deducted from the earlier payment made by the L.I.C. and accepted by the claimant. However, there shall be no order as to cost. Appeal dismissed.

