(2007) 07 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation APPELLANT

Vs

GULAB DEVI RESPONDENT

Date of Decision : 20-07-2007

Acts Referred:

Citation : 2007 3 CPR 171 : 2007 4 CPJ 375

Hon'ble Judges : G.S.Hora , Sikandar Punjabi J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal arises out of the judgment dated 18.12.2004 passed by the District Consumer Forum, Dungarpur, whereby while allowing the complaint the Insurance Company was directed to pay Rs. 50,000 to the complainant along with interest @ 9% per annum from 22.4.2003 and Rs. 1,000 as cost of litigation.

2. THE life policy was taken by the husband of the complainant late Shri Nathulal on 28.7.2000 for a sum of Rs. 50,000. THE mode of payment of premium was half yearly. It is mentioned in the complaint that the insured deposited on 19.1.2002 a sum of Rs. 873.20 which constitutes the amount of two instalments. THE next instalment was payable in July, 2002. It is also alleged that the insured died on 25.1.2002 and thereafter a claim was filed with the Insurance Company but no amount was paid to the complainant. THE complainant has thus filed the complaint in the capacity of nominee of the policy. The appellant-company filed its version in which it has been admitted that the premium which fell due in July, 2001 was deposited on 19.1.2002 along with the premium of January, 2002. As the premium for July, 2001 was not deposited even in the grace period, the policy had become in the lapsed condition. The insured died on 18.1.2002 whereas the premium was paid on 19.1.2002. As the premium was deposited after the death of the insured, the lapsed policy could not have been revived and, therefore, in case of a lapsed policy the amount as claimed was not payable to the complainant.

After hearing both the sides the learned Forum found that the insured had died on 25.1.2002 and, therefore, the policy stood revived after depositing the outstanding premium along with the late fee. The complaint thus was allowed as indicated above.

3. THE learned Counsel for the appellant has submitted that in fact the insured died on 18.1.2002 and, therefore, the policy could not have been revived after the death of the insured. THE policy can be revived only during the life-time of the policy holder. THE letter of Insurance Company dated 31.3.2003 Exhibit-O.P. 5 also goes to show that the claim was denied by the company only on this sole ground. THE question for consideration is whether the insured died on 18.1.2002. THE learned Counsel for the appellant has relied upon the treatment card Exhibit-O.P. 1, which goes to show that the Nathu s/o Rama Chamar was under treatment for tuberculosis. It has been pointed by reference to the above card that the patient continued to take the treatment till 14.1.2002 and thereafter he did not report to the centre for taking further treatment. THE learned Counsel also submitted that this treatment card also contains the remark "death on 18.1.2002 which proves that the patient died on 18.1.2002". On the contrary, the complainant has relied upon death certificate issued by Gram Panchayat, Indora which mentions that the insured died on 25.1.2002. So far as the death is concerned we can safely rely upon the certificate issued by the Gram Panchayat, where the record is maintained in due course of their working. On the other hand, the treatment card O.P. 5 does not supply satisfactory proof to show that the death occurred on 18.1.2002. Simply because the patient did not report to the centre for treatment cannot be indicative of the fact that he must have died on 18.1.2002. Who had recorded "death 18.1.2002", and what was the basis of information for recording this remark has not been shown by the Insurance Company. It has also been admitted by the learned Counsel for the Insurance Company during the course of argument that an inquiry was also conducted by the Insurance Company to ascertain the date of death but surprisingly the report has not been placed on the record. Under these circumstances there is no option but to rely upon the certificate issued by the Gram Panchayat which goes to prove that the insured died on 25.1.2002.

4. THE learned Counsel for the appellant very emphatically asserted that mere acceptance of premium does not constitute revival of lapsed policy unless the same accepted by the Insurance Company and the intimation about the revival is given to the policy holder. We have considered the arguments advanced by the learned Counsel but find no force. It is amply clear from the record that premium for the two instalments along with the late fee was accepted by the Insurance Company on 19.l.2002. THE document on record also goes to show that the insured was intimated that the next premium would fall due in July, 2002. We feel that issuance of Renewal Premium Receipt is sufficient to indicate that the Insurance Company had accepted the request made by the insured for the revival of policy. Follow up action was a mere formality. We may point out that this plea was neither taken while repudiating the claim of the complainant nor taken in the written version. For the foregoing reasons we find no infirmity in the order passed by the learned Forum and, therefore, appeal deserves to be

dismissed. Consequently, the appeal is dismissed but looking to the facts and circumstances of the case we leave the parties to bear their own cost. Appeal dismissed.

