(2007) 07 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India — APPELLANT

Vs

DARSHANA DEVI — RESPONDENT

Date of Decision : 13-07-2007

Acts Referred:

Citation : 2007 4 CPJ 319

Hon'ble Judges : K.C.Gupta , MajGenS.P.Kapoor , Devinderjit Dhatt J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been directed by opposite party Life Insurance Corporation of India against order dated 22.5.2007 passed by Consumer Disputes Redressal Forum-II, U.T.Chandigarh (hereinafter to be referred as District Consumer Forum), vide which complaint of Smt. Darshana Devi (respondent) was accepted and appellant was directed to pay Rs. 51,000 along with interest @ 9% p.a. from the date of repudiation of claim i.e. 31.3.2006 till payment and further to pay Rs. 5,000 as compensation for mental agony and harassment besides Rs. 2,200 as costs of litigation.

2. BRIEFLY stated the facts are that Roshan Lal husband of the complainant was having insurance policy No. 162613115 Annexure C-2 issued by LIC of India under plan and term 14-20 for a sum of Rs. 51,000 with profits and covering accidental benefits. However, Sh.Roshan Lal died due to heart attack on 16.6.2005 in PGI, Chandigarh. His wife Smt. Darshan Devi, respondent moved an application (C-4) for the grant of benefit to her and submitted the requisite forms on 16.11.2005. However, LIC of India instead of passing the claim repudiated the same vide letter dated 31.3.2006 (C-8) on the ground that Roshan Lal had withheld material information regarding his health in the proposal form/personal statement. However, respondent averred that her husband died due to heart attack and not with any disease like diabetes mellitus type-II which is alleged to have been concealed by him. She even made representation dated 14.6.2006 Annexure C-9 to the LIC of India and even gave reminder but to no effect. Alleging deficiency in service, complaint was filed.

Life Insurance Corporation of India contested the complaint and stated that repudiation had been done on the basis of fraudulent suppression of material information about his previous bad health by Sh. Roshan Lal in the proposal form dated 3.2.2004 for issuance of insurance policy.

3. PARTIES adduced their evidence by way of affidavits. After hearing Counsel for the parties, District Consumer Forum vide order dated 22.5.2007 accepted the complaint with costs and allowed claim of the respondent as stated in the earlier part of the judgment.

4. AGGRIEVED by the said order, opposite party Life Insurance Corporation of India has filed the present appeal. We have heard Mr. K.K. Doda, Advocate and carefully gone through the file. There is no dispute about it that Sh. Roshan Lal had got insurance policy Annexure C-2 under plan and term 14-20 for a sum of Rs. 51,000 with profits and covering accidental benefit. He had died due to heart attack on 16.6.2005 in PGI, Chandigarh i.e. he had died after about 15 months of the date of proposal.

5. COUNSEL for appellant has not been able to show that there is any nexus between Diabetes Mellitus II and the heart disease because according to the medical report, cause of death was not diabetes but was heart failure. Thus, there is no apparent nexus between cause of death and diabetes. The contention of learned COUNSEL for appellant is that even if there is no nexus between diabetes and the cause of death, Sh. Roshan Lal had suppressed material fact regarding his health as he had been suffering from diabetes mellitus type-II and for this reason, claim had been repudiated. He may have been suffering from the disease diabetes but this disease could be kept under reasonable control by proper medication. The history which had been recorded in PGI was that he was having history of diabetes mellitus and hypertension. This was recorded on the basis of statement made by the patient and attendant. Since, he suffered a stroke it is unbelievable that such statement was made by the patient. It might have been made by the attendant. It is not clear from how much time he had been suffering from diabetes. He might have been suffering from diabetes after taking of the policy.

6. THERE is no evidence that he got treatment for diabetes or hypertension prior to having of insurance policy and as such he was having knowledge that he was suffering from diabetes and was not keeping good health. Thus, it cannot be said with certainty that he had intentionally made fraudulent suppression of material facts . He had categorically stated in the declaration in the form which he had submitted on 3.2.2004 that he was not suffering from diabetes, TB etc. and his state of health was good. He had not died immediately. Further at the cost of repetition it may be again stated that it is not just misrepresentation of facts which had been made intentionally or had any material connection with the cause of death. The authorities cited by the Counsel for the appellant LIC of India v. Sri Sanjay Bajaj Consumer cases of LIC in Revision Petition No. 1341 of 2003 passed by the National Commission against order dated 30.1.2003 in Appeal No.

281/03 of State Commission, Uttaranchal, Dehradun and Life Insurance Corporation of India v. Krishan Chander Sharma passed by Hon''ble National Commission in Revision Petition No. 1935 of 1999 dated 23.1.2006 are not applicable to the facts of the present case because in the above mentioned cases it was proved that the policy holder had intentionally suppressed the disease from which he was suffering because he got treatment prior to the issuance of policy from the hospital. In the present case he had not taken treatment for diabetes/hypertension etc. THEREfore, it cannot be said that the policy holder had intentionally suppressed any material fact and further that material fact had no nexus with the cause of death. Thus, there is no force in the appeal and consequently it is dismissed in limine.

Copies of this order be communicated to the parties, free of charge. Appeal dismissed.

