
(1994) 02 NCDRC CK 0073

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India

APPELLANT

Vs

MOOLI DEVI

RESPONDENT

Date of Decision : 12-02-1994

Acts Referred:

Citation : 1995 2 CPC 683 : 1995 3 CPJ 116 : 1995 3 CPR 256 : 1996 1 CLT 440

Hon'ble Judges : N.C.Sharma J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal by Life Insurance Corporation of India against the order of the District Forum, Dausa dated 28.12.92 awarding to the respondent an amount of Rs. 25,000/- with interest @ 12% p.a. which was the sum assured under an Insurance Policy which had been issued by the appellant in favour of the respondent.

2. APPEARANCE was made on behalf of the respondent on 4.1.93 when her Counsel Mr. Jagdish Narain Sharma was present. The matter was then adjourned to 12.4.93. On that date and on all subsequent dates. Counsel for respondent did not appear. The case of the respondent in her complaint filed before the District Forum was that her husband Johari Lal was insured by the appellant on 26th Oct., 1988 for an amount of Rs. 25,000/-. It was alleged that Johari Lal suddenly fell ill and died on 11th Nov., 1988 in S.M.S. Hospital, Jaipur. Accordingly the claim of Rs. 25,000/- and further of an amount of Rs. 10,000/- as compensation was made.

The claim was opposed by the appellant by putting forward its version. The case of the appellant was that from the record of the hospital, it appears that Johari Lal deceased was ill since 21 days before he gave the proposal for insurance and further that mis-representation was made about his age by the insured. On these two grounds, the appellant repudiated the claim of the respondent on 22nd Dec., 1989. It was urged¹ by the learned Counsel for the appellant that after the appellant had filed its version before the District Forum on 11th Oct., 1991, the Forum adjourned the case to 4th Dec., 1991 for arguments. However, on account

of change in administrative set up, the case was transferred to the District Forum, Dausa and it was taken up on 9th Dec., 1991. On 15th Jan., 1992 adjournment was sought on behalf of the appellant for filing documents and accordingly the case was adjourned to 31st Jan., 1992. On this date also adjournment was sought for arguments and the matter was fixed on 24th Feb., 1992. Arguments were heard on that date and the matter was decided on 28th Feb., 1992. It was contended that the District Forum did not give an opportunity to the appellant for filing the affidavits and evidence. So far as documentary evidence was concerned ample opportunity was given to the appellant as appears from proceedings dated 15.1.92 and the appellant did file several documents before the District Forum. It does not appear that any request on behalf of the appellant was made for adducing any oral evidence. In the circumstances, it cannot be said that the appellant did not have opportunity to adduce evidence. The appellant itself had sought time only to produce documents and time was granted.

3. IT was next urged that the age of the respondent when he gave the proposal for insurance was more 40 years and a mis-statement was made by him of about his age. Reliance has been placed on the electoral roll in which the age of the deceased was given as 41. The District Forum has rightly held that the age in electoral roll did not reflect the true age of a person. The appellant insured the respondent and unless it was well established that the age of the deceased was above 40 years, it cannot disown its liability under the policy. IT has also not been established that the deceased was ill when he gave the proposal. The death certificate issued by S.M.S. Hospital, Jaipur only goes to show that Johari Lal died on 11th Nov., 1988 and the illness recorded is pneumonia. From that alone it cannot be said that the deceased was ill and he gave any mis-statement about his health while making the proposal. The appellant having insured Johari Lal, it was liable to pay the sum for which Johari Lal was insured to the respondent. No interference is called for in the order of the District Forum, Dausa. The appeal is, therefore/dismissed. Appeal dismissed.