(2004) 02 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India APPELLANT

Vs

PHATANGI DEVI RESPONDENT

Date of Decision : 25-02-2004

Acts Referred:

Citation : 2005 1 CPJ 692

Hon'ble Judges : K.D.Shahi , Surendra Kumar , Luxmi Singh J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the order dated 3.6.2003 passed by the District Forum, Udham Singh Nagar wherein the complaint of Smt. Phatangi Devi for claim of the insured amount on the death of the insured was allowed.

2. THE brief facts of the case are that admittedly Sh. Ramayan Yadav was a fitter in the Co-operative Sugar Mill, Bajpur Distt. Udham Singh Nagar. He had got a Group Savings-Linked Insurance Scheme. Sh. Ramayan Yadav died on 15.3.1999, the complainant requested for the insured amount but was not paid and, therefore, the complaint was filed. The Insurance Company filed written statement and pleaded that at the time of taking the policy, there was a condition that the Sugar Mill will pay the premium in time and if it is not paid, the company shall not be liable. Since the premium was not paid, the policy had lapsed. It is said that the insured died on 15.3.1999, no premium was paid till 20.2.1999, and, therefore, the policy had lapsed. The premium was paid on 31.3.1999 but at that time the death of the present insured was suppressed. If it had been informed in time, the premium might not had been accepted. On death of other insured, it was revealed that the premium has been got accepted by fraud. It was pleaded that the liability to pay in that case is that of the employer.

The learned Forum has rejected the claim against the employer and has allowed it only against the Insurance Company. No appeal has been filed by the claimants against this order relieving the employer. Therefore, in this appeal we cannot decide what is the liability of the employer vis-a-vis complainant in the absence of the appeal. It is said that a separate complaint is going on between the employer and the Insurance Company and there the matter can be decided. But in this case there is no mistake of the complainant or the insured, the amount was to be paid by the employer, it has been paid on 31.3.1999 along with penalty and that has been accepted. It is admitted fact that the amount of the premium was deducted from the salary of the insured well in time but the records of the employer were seized by the Income Tax Department, therefore, the payment was not made in time. The learned Forum has held that the defendant No. 1 Bajpur Co-operative Sugar Mill was actually responsible for that. If it was so, the claim should have been decreed against the employer as well and if it was so the Insurance Company by a separate suit can claim indemnification from the employer but the claim of the complainant cannot be defeated. After all, the employer is the agent of the Insurance Company. It is true that the ruling reported in III (1999) CPJ 15 (SC)=VIII (1999) SLT 279=AIR 2000 SC 43, Delhi Electric Supply Undertaking v. Basanti Devi and Another, is of Salary Savings Scheme and the insured in the case was insured under different scheme but the principles applicable are the same. In the above ruling, the employer did not deduct premium from salary but in this case the employer has even deducted the premium from the salary of the insured. Our attention was drawn on para 3 of the ruling in which it was pleaded that the case of the employee was not of group insurance. Each employee owns his policy individually, is entitled to all its benefits and can continue the policy in the event of any change in employment. That is not the finding of the Supreme Court but that is how the scheme has been explained by the L.I.C.

3. THE ruling reported in I (1994) CPJ 95 (NC)=1994 (1) CPR page 106, L.I.C. v. Consumer Education and Research Society and Others, given by the National Commission was referred in which it has been held that mere acceptance of the amount in the absence of the knowledge of the death of the deceased on the part of the insurer cannot mean that the latter has accepted the premium. THE facts of this case are not applicable to the present case because in the ruling there was a individual insurance that was not a group insurance where the employee can do nothing instead of giving the direction to the employer to deduct the premium and to pay it to the insurer. THE premium has been deducted and employer is the agent of the Insurance Company, it shall be deemed that the payment has been made to the Insurance Company well in time because any payment to the agent is the payment to the principal. We leave open the dispute between the employer and the Insurance Company. They can settle their a core separately but in this case the claim has rightly been allowed to the complainant.

4. WE do not find any force in this appeal and the appeal is liable to be dismissed. ORDER The appeal is hereby dismissed. Cost of the appeal shall be easy. Appeal dismissed.

