

(2008) 02 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India

APPELLANT

Vs

Satinder Kaur

RESPONDENT

Date of Decision : 19-02-2008

Acts Referred:

Citation : 2008 3 CPJ 279

Hon'ble Judges : S.N.Aggarwal , Jasbir Kapoor J.

Advocate : P.K.Kataria , Paramjit Batta

Judgement

1. THIS is an appeal by L. I. C. against the judgment of the District Forum, Amritsar dated 14. 3. 2007 by which the complaint of the complainant was accepted in the following terms: "in view of the above discussion and the law laid down by the Hon"ble Maharashtra State Commission in which an authority of the Hon"ble National Commission was also discussed; we are of a very clear view that the insurance claim of the complainant was illegally and unjustly repudiated by the opposite party without bringing any cogent and convincing evidence on record to justify the grounds taken in the repudiation letter. We, therefore, find no impediment in the way of allowing the present complaint, which is partly allowed and opposite party is directed to pay the sum assured with vested bonus, as applicable to the two policies taken by the deceased assured, to his wife Smt. Satinder Kaur along with interest at the rate of 8% per annum from the date of repudiation of the claim till payment of the amount. Opposite party would also pay Rs. 1,000. 00 as litigation expenses to the complainant within a period of one month from the date of receipt of copy of the orders by way of bank draft or account payee's cheque; failing which proceedings under Sec. 27 of the Consumer Protection Act would be initiated against the opposite party. This amount would be deposited in the FDR in any Nationalized Bank of the choice of the complainant, initially for a period of one year. She can withdraw monthly or quarterly interest on this amount. Copies of the orders be furnished to the parties free of costs. File is ordered to be consigned to the record room. "

2. BRIEF facts of the case are that the respondent - complainant -Smt. Satinder

Kaur's (hereinafter referred to as "the complainant") husband had taken two policies bearing Nos. 130092574 and 130092575 dated 15/7/2004 and paid the premium through his employer i. e. PAP. The husband of the complainant felt pain in his chest and stomach on 9/1/2005 and immediately admitted to Mata Kaulan Hospital, Amritsar and then referred to Escorts Heart and Super Speciality Institute on 10/1/2005 where he died on 12/1/2005. The death of her husband was due to Cardio Respiratory Arrest, as per certificate of the Escort Hospital. It was stated that after the death of her husband; due information and insurance claim along with documents was given to the opposite party for settlement of the claim. On 13/3/2006, the claim of the complainant was repudiated. It was stated that her husband was Teetotaler and not patient of Alcohol Pancreatitis before the date of proposal. It was stated that her husband was not suffering from any disease, for which he has answered no in proposal dated 15/7/2004 and not made any incorrect statement. It was prayed that opposite party be directed to pay Rs. 50,000 of each policy (two policies) plus Rs. 50,000. 00 as compensation and also prayed for any other relief. On notice, opposite party filed its reply and admitted the fact of two endowment policies but stated that complainant's husband wilfully concealed his health condition in the proposal of assurance dated 15/7/2004 and given wrong and false answer to the questions like never used alcohol drinks. Life assured had died on 12/1/2005 i. e. within six months from the date of acceptance of risk. It was further stated that on receiving the claim papers it was observed that both the policies were lapsed on the date of death of the life assured so the claims were not acceptable. On investigation, it was found that life assured was alcoholic, admitted in the Hospital and from the treatment record the life assured had expired due to infected Pancreatic Necrosis, ARDS, Acute Renal Failure and Alcoholic Hypotension. It was further stated that as per opinion of the medical expert Acute Pancreatitis can occur especially to an alcoholic. It was stated that life assured had tried to play fraud to grab the public money for his legal heirs. It was stated that premium of the policies was not regularly received and gap was existed for the month of October 2004 in both the policies and both the policies stood lapsed and not revived by the deceased during his life-time. Some other objections were taken and prayed for dismissal of the complaint.

Learned District Forum considered the matter and allowed the complaint vide impugned order dated 14. 3. 2007 in the terms reproduced above.

3. HENCE, this appeal. We have heard the learned Counsel for the parties and have gone through the detailed order passed by the learned District Forum as well as record of the case minutely.

4. LEARNED District Forum while dismissing the complaint observed in its impugned order as under: we have carefully scanned the evidence brought on record by the opposite party. From the evidence which has been produced on record, it stands established that deceased assured has died of heart attack as cause of death by the Escorts Heart and Super Speciality Institute and Research

Centre, where the deceased assured was admitted at the time of his death has been given as Cardio Respiratory Arrest. This information is contained in death certificate Exbt. C-6 issued by the above said hospital. The certificate given by the employer of the deceased assured which is Exbt. C-10 also shows the cause of death as heart attack. Opposite party has produced a document i. e. death summary of the deceased assured which is Exbt. R-10. We deem it pertinent to reproduce the contents of this document in order to correctly analysis the import of the contents of this letter: DEATH SUMMARY patient Name Mr. Pardeep Singh regn. No. 10029 age/sex 30 yrs/m ipd No. 3542 admit Date 10. 1. 2005 expiry Date 12. 1. 2005 diagnosis

Acute Necrotizing Pancreatitis - Alcoholic? Infected pancreatic necrosis multi Organ failure (Acute Renal Failure ARDS, hypotension)Patient Pardeep Singh 30 yrs. old male presented with c/o pain abdomen for 3 days with Hypotension with reduced urine output. Clinical diagnosis of Acute Pancreatitis was made which confirmed by blood counts, serum amylase and USG. Patient was in persisting hypotention in spite of inotropic support. Patient had sudden fall in saturation with tachypnoea, patient was intubated and put on ventilator. Patient had reduced urine output and ultimately renal shut down. Rising counts, persistent high grade fever, anurie phase, hypotension did not respond to therapy. There was persisting metabolic acidosis and hypocalcemia which was managed conservatively. Patient was continuously deteriorating in spite of all possible therapy. USG showed acute pancreatitis with blood picture of severe infection (increased TLC). His CT scan abdomen was done on 11. 2. 2005 which revealed acute necrotizing pancreatitis grade C.

Patient had cardiac arrest at 1:15 a. m. on 12/1/2005. CPR done and all possible efforts done to revive but was not successful and ultimately declared dead at 1. 30 a. m. on 12/1/2005.

Dr. Maninder Singh (Attending Consultant)Dr. Jagdeep Singh (Consultant Incharge)

Dr. Jagdeep Singh and Dr. Maninder Singh have recorded that Pardeep Singh Gill has complained of pain in abdomen for three days with hypotension with reduced urine output. They have further reported that clinical diagnosis of Acute Pancreatitis was made which was confirmed by blood counts. This shows that complainant was suffering from hypotension and he was also diagnosed to be suffering from Acute Pancreatitis. This was the state of health of the deceased assured on 10/1/2005. The proposal form which the deceased assured was inflicted was detected only on 10/1/2005 and there is absolutely no evidence on record to show that deceased assured suffered from this malady before his admission to the Escorts Heart and Super Speciality Institute on 10/1/2005. We are, therefore, constrained to record that opposite party could not produce any evidence to establish their allegations that deceased assured has concealed the material facts from the opposite party regarding the state of his health. We would further like to record that malady alleged to be diagnosed by the Escorts

Heart and Super Speciality Institute could not be proved to be pre-existing. "

The point for consideration in this case is whether the deceased has concealed the information of his health in the proposal form? In this case, the lapse in paying the premium was not proved by the appellant so the question of revival does not exist. The next point for consideration is that what was the cause of death? It is proved from the record that the cause of death of the husband of the respondent/complainant was heart attack, which certified from the certificate of the hospital, where deceased was operated and also the same was admitted by the employer of the deceased. No evidence was produced by the appellant, which shows that the deceased had taken treatment of the disease, prior to taking the policy.

5. LEARNED Counsel for the appellant has shown to us one document which was the opinion of the Doctor of Heart and Diabetes Clinic of Amritsar, which states that "acute pancreatitis can cause sudden death and can occur to anyone esp. to an alcoholic". We are not convinced from this document that the cause of death of the deceased is pre-existing and due to alcohol. In our opinion, the suppression of the material or the wrong answer must have some direct bearing or nexus with the ultimate cause of death, which in this case is not proved. It is also not proved by the appellant that the deceased had alcoholic and previously admitted in the hospital due to drinking of alcohol and it is also not proved that the death of the deceased was due to pre-existing disease or deceased has taken any treatment.

6. IN view of the above, we concur with the well based reasoning of the District Forum. Finding no infirmity in its order, the same is affirmed. Consequently, this appeal is dismissed, however, without any order as to costs. The appeal could not be decided within the statutory period because of heavy pendency and non-availability of the requisite Benches and infrastructure in the State Commission, for which the State Government has already been requested. Appeal dismissed.