(1995) 08 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India APPELLANT

Vs

SHIV CHANDER RESPONDENT

Date of Decision : 09-08-1995

Acts Referred:

Citation : 1995 2 CLT 632 : 1995 2 CPC 248 : 1995 3 CPJ 173 : 1995 3 CPR 301

Hon'ble Judges : M.R.Agnihotri , S.Kulwant Singh J.

Final Decision : Appeal allowed without costs

Judgement

1. THIS appeal has been filed by the Life Insurance Corporation of India against the order dated 3rd of August, 1994 passed by the District Forum, Kamal, whereby though the complaint filed by Shiv Chander against the Life Insurance Corporation was dismissed and the repudiation was upheld on the ground that there was suppression of material particulars on the part of the insured, yet the complainant has been held entitled to recover the amount of premium paid with interest at the rate of 12%.

2. BRIEFLY stated, one Parvesh Rani w/o Shri Chaman Lal, resident of 433, New Prem Nagar, Kamal employed as a peon in the Haryana Roadways, Kamal, got herself insured for Rs. 25,000/- on 30th of April, 1991. The first premium of Rs. 1128/- was also paid by the insured at the time of submitting the proposal form. According to the complainant-Shiv Chander, his mother Smt. Parvesh Rani died on 1st of April, 1993 and he being the nominee claimed the insured amount on the basis of the aforesaid policy. But the Life Insurance Corporation found, that the death had taken place within two years of the insurance of the deceased and that the insured was suffering from heart disease and hypertension, which she deliberately suppressed and did not disclose at the time of her medical check-up for the insurance and that immediately before her death she had availed long leave at number of occasions, repudiated the claim. Aggrieved against the same, complainant Shiv Chander filed the complaint before the District Forum, Kamal, who after going into the facts and circumstances of the case has given a firm finding, that it was a case of suppression of material facts and deliberate mis-

statement on'' the part of the deceased at the time the policy was taken out for insurance. As a result thereof, the complaint was dismissed and the repudiation of the insurance policy was upheld, but in the end the learned District Forum held as under: "However, since the contract was void, the claimant shall be entitled to recover the amount of premium paid with interest at the rate of 12 percent."

It is against this limited decision that the present appeal has been filed by the Life Insurance Corporation.

So far as the respondent-complainant is concerned there is neither any cross appeal nor has he appeared to oppose the appeal despite notice served for the date of hearing. On the other hand, Mr. B.J. Singh, learned Counsel for the Life Insurance Corporation, has vehemently pleaded that once the learned District Forum had found it as a fact that there was deliberate suppression of material facts on the part of the deceased and as a consequence whereof, the claim of the complainant was rightly repudiated, the question of holding the complainant entitled to the refund of the amount of premium deposited by the deceased, did not arise. We agree with the submission of the learned Counsel especially when it has been provided in the contract of insurance in unambiguous terms "that if any untrue averment is contained therein the said contract shall be absolutely null and void and all moneys which shall have been paid in respect thereof shall stand forfeited to the Corporation." In view of this clear stipulation having been agreed upon by the insured, the question of her nominee-the complainant being entitled to the refund of the premium paid does not arise. Consequently, we allow the appeal and quash the direction contained in the concluding portion of the order of the learned District Forum, as reproduced above. There shall be no order as to costs. Appeal allowed without costs.