(1995) 08 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

LIFE INSURANCE CORPORATION OF INDIA — APPELLANT

Vs

S.HYMAVATHI — RESPONDENT

Date of Decision : 14-08-1995

Acts Referred:

Citation : 1995 0 NCDRC 31 : 1995 3 CPJ 42 : 1996 1 CPJ 13

Hon'ble Judges : V.BALAKRISHNA ERADI , S.S.CHADHA , S.P.BAGLA J.

Advocate : M.L.Visweswaraiah , SUNIL KUMAR REDDY

Judgement

1. THIS Revision Petition has arisen out of the order dated 3.8.1994 passed by Andhra Pradesh State Commission at Hyderabad dismissing the appeal of Life Insurance Corporation of India (for short called L.I.C.) and confirming the order dated 15.9.1993 of District Forum, Warangal wherein it was held that the claims under the two Insurance Policies were wrongfully repudiated by the L.I.C. and directing payment of the amount covered by the policies with interest at the rate of 12% per annum.

2. THE facts lie in a narrow compass and may be noticed. The Complainant''s husband Shri S. Narasaiah had taken two Insurance Policies on own life, one for Rs. 7,000/- in pursuance of the proposal dated 28/29.3.1988 and the second for Rs. 25,000/- in pursuance of proposal dated 23.10.1988. The policies issued by L.I.C. are No. 840166220 and No. 880200863 respectively. The assured died on 13.5.1991. The Complainant who is the nominee under Section 39 of the Insurance Act, lodged two claims under the said policies with L.I.C. By two separate but identical letters dated 22.1.1992 L.I.C. repudiated all liability under the polices on account of the deceased having withheld correct information at the time of effecting the assurance regarding his health. The Complainant then filed the complaint under Section 12 of the Consumer Protection Act, 1986 before the District Forum at Warangal (Andhra Pradesh) being CD. No. 382 / 92. On being noticed L.I.C. filed its counter reiterating that as the insurance contracts are contracts based on the principles of utmost good faith, there is a responsibility cast on the assured to give full and correct information to the questions

contained in the proposal form and as the assured withheld material information and gave wrong answers as to his previous medical history, the claim was repudiated. It is contended that the complaint was not maintainable as the matter was investigated by L.I.C. and considering all aspects their liability was rightly repudiated. Before the District Forum the parties filed affidavits and documents. L.LC/s stand is that there is indisputable proof that the policy holder was a known patient of chronic Rheumatic Heart Disease with Mitral Stenosis and Atrial Febrillation and that he underwent Mitral Valvectomy 15 years back and that the policy holder suffered from breathless for about one year before the proposal and was on medical leave for 170 days from 15.5.1988 to 31.10.1988 but the policy holder failed to disclose those facts in the proposal forms and also during medical examinations. Reliance was placed on the certificate of hospital treatment issued by the Doctors of Apollo hospital as well as on record of medical leave proved by Andhra Pradesh State Road Transport Corporation. The District Forum as well as the State Commission found that the policy holder underwent a Mitral Valvectomy operation of heart 15 years back and that it must be a congenetal defect cured by undergoing operation, that subsequently the policy holder worked on the tedious and strenuous job of a driver of Andhara Pradesh State Road Transport Corporation vehicle for at least 8 hours a day without any complaint for 15 years and it is an indication of the health of the policy holder. It is for this reason the policy holder said ''NO'' against the Column No. 18(b) referring to ''high blood'' pressure, reheumatic fever, pain in chest, breath-lessness, palpitation, infarction or any disease of the heart of arteries". Both the District Forum and the State Commission held that on these facts the policy holder need not say about the operation that was done 15 years back. As far as the leave on medical grounds is concerned the District Forum and State Commission came to concurrent finding that no ailment had been mentioned in the leave applications and no medical certificate is produced* to show for which ailment assured applied for leave and that in the absence of any medical evidence showing that the policy holder had applied for leave with regard to any heart ailment or any other serious disease it cannot be said that there is any suppression of material facts or in not mentioning passing ailments. The only evidence on record was the statement made by the policy holder at the time of his admission in hospital that he had breathlessness on exertion for the past two years. The District Forum as well as the State Commission on the appreciation of material came to the concurrent finding of fact that this evidence does not establish that the assured was a war v. prior to the submission of the proposal that he was suffering with chronic Rheumatic Heart disease with Mitral Stenosis and Atrial Febrillation and he want only suppressed the same in the proposal form.

3. WE find that the appreciation of evidence by the District Forum as well as the State Commission has been in accordance with sound established principles and the conclusions drawn are based on evidence on record. The impugned orders are not vitiated by any illegality or error in the exercise of jurisdiction by them.

The burden lay on the L.I.C. to establish that the policy holder has made a statement fraudulently, knowing that the statement was false or there is a deliberate suppression on material facts. Both the District Forum as well as the State Commission have concurrently found that the Insurer has not discharged the burden and the act of repudiation is not bonafide. There is no error of law or of jurisdictional defect warranting any interference in exercise of revisional jurisdiction. The Revision Petition is dismissed with no order as to costs. The amount deposited by L.I.C. as a condition of stay granted by this Commission on 20.12.1994 may be paid to the Complainant by the State Commission expeditiously.