(2001) 04 NCDRC CK 0064

In the National Consumer Disputes Redressal Commission

Life Insurance Corporation of India APPELLANT

Vs

SUDHA DEVI RESPONDENT

Date of Decision : 03-04-2001

Acts Referred:

Citation : 2001 3 CPJ 588

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 28.8.2000 passed by District Consumer Forum, Fatehpur in Complaint Case No. 145 of 1999.

2. THE facts of the case stated in brief are that the complainant''s husband, late Kaushal Kishore Awasthi, took a policy for Rs. 50,000/- from Life Insurance Corporation of India. THE complainant was a nominee in the policy. THE proposal form was filled up on 29.10.1992 and on the same date the first premium was paid. THE policy started from 25.11.1992 and it was to mature on 25.11.2017. THE insurance was for a period of 25 years. The complainant''s husband died in February, 1995. He was treated by Dr. Pankaj Jain in Sadar Hospital, Fetehpur. After treatment he was perfectly all right and he was doing his work in a normal way. On 27.1.1995 the insured informed the Life Insurance Corporation of India that one of his premiums could not be paid. Therefore, the insured on 28.1.1995 paid a sum of Rs. 2,870/- including interest for revival of the policy. Suddenly on 12.2.1995 the insured developed pain in the chest and he died on account of cardiac arrest. The complainant informed the Life Insurance Corporation and thereafter completed all the formalities, but the complainant has not been paid any amount so far. When the complainant contacted the office of the Life Insurance Corporation at Kanpur on 18.2.1999 she was told that the amount of the policy will not be given to her as the insured was suffering from heart disease. The complainant prayed for the amount of insurance along with Rs. 7,500/- spent by her on account of conveyance, etc.

The opposite party, Life Insurance Corporation of India, in the written version has alleged that the deceased was suffering from heart ailment and after the completion of the enquiries on 18.2.1999 the complainant was told that she will be informed of the decision taken. It has further been alleged that there is a contract between the parties for the insurance and the insured suppressed material facts from the Insurance Company and declared wrong facts. It has also been alleged that the insured remained under treatment of Dr. Pankaj Jain from 1.2.1994 to 6.2.1995. He was treating the insured for heart diseases.

3. IT is further alleged that on account of non-payment of the premium, the policy became lapsed on 1st May,1994 which was restored on 27.1.1995. At the time of revival of the policy, wrong information was given to the Life Insurance Corporation of India and the fact of illness was suppressed. The learned District Forum, after perusing the evidence of the parties and hearing both of them, came to the conclusion that there was no material suppression of facts. Hence it decreed the complaint for the insured amount along with 18% per annum interest. The amount was to be paid within five weeks from the date of judgment.

4. AGGRIEVED against the order of the learned District Forum, the Life Insurance Corporation of India has come in appeal and has challenged the correctness of the order passed by the Forum. We have heard the learned Counsel for the parties and have perused the evidence on record. Learned Counsel for the appellant has argued that in the present case the insured was suffering from heart ailment and remained under treatment of Dr. Pankaj Jain from 1.2.1994 to 6.2.1995. According to the learned Counsel this policy has lapsed in May, 1994 and was revived on 27.1.1995. At the time of revival of the policy the insured gave wrong information that he has not been suffering from any ailment. Now this is the only question which has to be decided in this case. According to the learned Counsel for the opposite party the deceased was not suffering from any heart ailment and he suddenly developed cardiac arrest. According to the learned Counsel for the respondent/complainant the deceased was not under treatment of Dr. Pankaj Jain from 1.2.1994 to 6.5.1994 but was under his treatment for a short period of five days from 1.2.1994 to 5.2.1994. The learned Counsel for the appellant has placed reliance on the certain papers, copies of which are on record. The first paper relied on by the learned Counsel for the appellant is that the deceased had given a declaration of good health on 27.1.1995 when the policy was revived. No doubt there is a declaration that the deceased is in a good health and has not undergone any medical or surgical treatment or X-ray, ECG, pathological or other tests since the date of proposal or last revival to this effect. Now we have to see whether the declaration given by the deceased was false or not. The appellant has also filed a photocopy of the certificate of treatment by the doctor who treated the deceased. In column 3 it has been written that the deceased died on 12.2.1995 at 3 a.m. In the column of the cause of death, it is written as M.R.C.T. In the photocopy it cannot be read as to what was the exact disease, but atleast it is clear that the deceased died of cardiac arrest. The symptoms of the deceased are Dysnea and palpitation. The period of treatment is given as 1.2.1994 to 6.2.1995.

5. IN column No. 10 it is written that he treated the patient from 1.2.1994 to 6.1.1995. This certificate was issued on 26.4.1995. On the other hand, there is a paper a copy of which has been filed. This paper/certificate has also been issued by Dr. Pankaj Jain on 26.4.1995. This is also of the same date on which the previous certificate has been issued. A perusal of the same goes to show that the treatment of the deceased was done by him from 1.2.1994 to 5.2.1994 and he was suffering from rheumatic heart disease. This document is in contradiction to the previous document of the same date referred to above. Thus if we read both these papers together, the fact will be clear that the deceased was treated by this doctor only for a short period of five days in the year 1994. There is no evidence on record to suggest that the doctor who treated the deceased had told him that he is suffering from such a disease and he should get it treated for this disease. If the deceased was suffering from this disease then the doctor must have advised the deceased for getting it treated by a specialist because in the case of valve which is affecting on account of rheumatism, it cannot be treated but the valve is to be replaced. Therefore, unless it is proved by the INsurance Corporation that the deceased knew about the disease about which the doctor Pankaj Jain had given a certificate on 26.4.1995, it cannot be said to be suppressing of any fact, what to say of material suppression of facts. IN absence of any cogent evidence on record that the deceased knew about the disease, it is not possible for this Commission to hold that the deceased had made suppression of facts. The learned District Forum has considered this aspect of the matter in detail and we do not find any reason to differ from the findings of the learned District Forum. The appeal is, therefore, liable to be dismissed. ORDER

6. THE appeal is dismissed and the judgment and order of the learned District Forum are confirmed. THE appellant shall pay a sum of Rs. 2,000/- as cost of the appeal to the respondent/complainant. Let the compliance of the order be made within a period of two months from the date of this order. Let copy as per rules be made available to the parties. Appeal dismissed.

