**(2002) 02 NCDRC CK 0049**

**In the National Consumer Disputes Redressal Commission**

Life Insurance Corporation of India APPELLANT

Vs

VIMAL KUMAR MITTAL RESPONDENT

**Date of Decision :** 14-02-2002

**Acts Referred:**

**Citation :** 2002 2 CPJ 66 : 2003 1 CLT 266 : 2003 1 CPR 11 : 2003 2 CPC 288

**Hon'ble Judges :** D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

**Final Decision :** Petition dismissed with costs

## Judgement

1. PETITIONER was the opposite party before the State Commission. Claim of the respondent-complainant had arisen out of a joint insurance policy which he had taken with his wife. Wife of the complainant died on 29.5.1991. It was the case of the petitioner-insurer that she died within one year of the date of the policy and that death was on account of suicide and such Clause 4(b) of the policy applied. Full claim of the insurance was, therefore, denied to the complainant. However, it was the stand of the complainant that death took place, assuming it to be suicide after one year from the date of the risk and as such complainant was entitled to full amount insured under the policy. Both the District Forum and State Commission held against the petitioner insurer. Complaint was allowed and direction was issued to the insurer to pay all the benefits under the policy within one month of the order and further to pay interest @ 9% per annum on these amounts six months after the death of the wife of the complainant. Cost of Rs. 1,000/- was also awarded by the District Forum. State Commission in appeal filed by the insurer affirmed the order of the District Forum and dismissed the appeal.

2. COMPLAINANT obtained Jeevan Sathi Life Insurance Policy along with his wife. Proposal form was submitted on 25.5.1990. On 28.5.1990 petitioner issued a branch collection receipt of having received the premium. Policy was issued on 15.9.1990 giving the date of commencement of the risk as 28.5.1990. Premium was payable quarterly. It was mentioned in the receipt that next premium will fall due on 28.8.1990. However, the policy was issued on 15.9.1990. Wife of the

complainant died on 29.5.1991. Policy clearly mentioned that it commenced from 28.5.1990 and it was to mature on 25.5.2010. At the time when we issued notice after admission of this petition it was mentioned by learned Counsel for the petitioner that decision of the State Commission was contrary to law laid down by the Supreme Court in the case of Life Insurance Corporation of India & Anr. v. Dharam Vir Anand, III (1998) CPJ 3 (SC). In that case the question before the Supreme Court was whether under Clause 4(b) of the policy, the date of policy is the date on which policy was issued or the date on which the risk under the policy had commenced. Clause 4(b) reads as under : "4(b) Notwithstanding anything within mentioned to the contrary, it is hereby declared and agreed that in the event of death of the life assured occurring as a result of intentional self-injury, suicide or attempted suicide, insanity, accident and other than an accident in a public place or murder at any time on or after the date on which the risk under the policy has commenced but before the expiry of three years from the date of this policy, the Corporation''s liability shall be limited to the sum equal to the total amount of premiums (exclusive of extra premiums, if any) paid under the policy without interest : Provided that in case the life assured shall commit suicide before the expiry of one year reckoned from the date of this policy, the provisions of the clause under the heading "Suicide" printed on the back of the policy shall apply."

As would be seen there are two dates mentioned in this Clause 4(b) one is date on which the risk under the policy commenced and the other is the date of the policy. Supreme Court was thus of the view that two dates were different and in the circumstances of the case before it, it was the date of the policy which was relevant and the claim under the insurance was restricted if there was a suicide before the expiry of three years from the date of the policy. But then when examining the policy there is no Clause 4(b) and it is only Clause 6 which relates to suicide, which is as under : "(6) This policy shall be void if either of the life assured commits suicide (whether sane or insane at the time) at any time on or after the date on which the risk under the policy has commenced but before the expiry of one year from the date of this policy and the Corporation will not entertain any claim by virtue of the policy except to the extent of a third party''s bona fide beneficial interest acquired in the policy for valuable consideration of which notice has been given in writing to the office to which premiums under this policy were paid last, at least one calender month prior to death."

3. RELIANCE of Mr. Joy Basu, learned Counsel for the petitioner was wholly on the interpretation of Clause 4(b) and the applicability of the aforesaid decision of the Supreme Court thereto. But there is no such Clause 4(b) in the policy though one may find mention in the receipt dated 31.5.1990 which reads "OR + AB + C/4B". When there is no Clause 4(b) in the policy, reference to Clause 4 in the policy is of no relevance. There could not be any dispute that the policy commenced from 28.5.1990 assuming it was a case of suicide which happened on 29.5.1991 was after one year of the date of the risk. In these circumstances, there could not be said that there was any error in the impugned order of the

 

State Commission. We have seen above that receipt dated 31.5.1990 which shows that the amount has been received on 28.5.1990 and the next premium falls on 28.8.1990. We are unable to accept the argument of Mr. Basu that in any case the receipt is dated 31.5.1990 and that suicide having taken place on 29.5.1991 was within a year of the date of the risk. He had, however, no answer to our query as to how it could be said that next premium would fall on 28.8.1990 and why not on 31.8.1990. Premium was payable quarterly. Policy itself mentions the date of risk on 28.5.1990 which date evidencing the receipt of the first premium. It is certainly paradoxical situation that Clause 4(b) comes into play from the date as given in the policy which is totally in the hands of insurer. Ordinarily, in our view, policy has to be on the same date from which date risk is covered. Perhaps some day Supreme Court may like to consider its decision rendered in the case of Life Insurance Corporation of India & Anr. v. Dharam Vir Anand. We, therefore, find no merit in this petition which is dismissed with cost of Rs. 1,000/-. Before parting with the judgment we would like to observe that policy normally issued after great deal of delay. The date of issue of policy is not in the hands of the insured. Petition dismissed with costs.