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(1993) 05 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

MAINA DEVI BAIRALIA — APPELLANT

Vs

LIFE INSURANCE CORPORATION — RESPONDENT

Date of Decision : 11-05-1993

Acts Referred:

Citation : 1993 0 NCDRC 114 : 1993 1 CLC 24 : 1993 1 CLT 443 : 1993 2 CPJ 183 : 1993 2 CPJ 193 : 1993 2 CPR 399

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , Y.KRISHAN , B.S.YADAV J.

Advocate : B.K.SINHA , RAJIV NAYAR

Judgement

1. THE facts leading to this Petition are that Shri Pawan Kumar Bairalia took a life policy from the Opposite Party - Life Insurance Corporation (for short the Corporation) on 28th December, 1975 for the sum of Rs. 50,000/-. He was husband of the present Complainant, Smt. Maina Devi Bairalia who was nominee under the policy. The insured paid the yearly premium at the time of taking the policy. He did not pay next yearly premium which fell due on 28th December, 1976. However, before he could pay the premium within the period of grace, he died on 11th January, 1977 in the Darbhanga Medical College and Hospital on account of sudden illness. Earlier to that he was keeping good health. The Complainant who is said to be 27 years of age at that time lodged a claim with the Corporation under the policy. She was not given any reply by the Divisional Office and did not acknowledge her letters in spite of reminders. She then wrote to the Chairman of the Corporation. Thereafter the Divisional Office of the Corporation sent a letter dated 18th November, 1982 to the Complainant which reads as follows: "With reference to your complaint to our Chairman we have to inform you that the life assured died shortly after commencement of the policy and as such we have to undergo certain additional formalities in this case. As these formalities have not been completed, we have not been able to finalise consideration of the claim. We, however, assure you that we are trying our best to expedite completion of such formalities and as soon as these are over we shall write to you further in the matter."

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2. IT is surprising that the Corporation could not complete the formalities for a period of more than 5 years. Thereafter, the Corporation again kept quiet and did not send any letter to the Complainant. On 30th October, 1984 even Mr. S.P. Singh, Agent of the Life Insurance Corporation, Darbhanga Branch wrote a letter to one Mr. Sarkar (some senior Officer of the Life Insurance Corporation). It will be useful to reproduce hereunder contents of that letter also to show the carelessness of the Corporation in the matter of settlement of the Complainant''s claim. "Today when I contacted some responsible persons of this place to canvass for life insurance, they complained to me that the claim of the above deceased policy-holder is lying pending for the last so many years with the Muzaffarpur D.O. The widow who is the nominee in the above policy, I understand, wrote several times to the D.O. as also to the CO. but in spite of this the claim is still lying pending. The D.O. has not even acknowledged the letters of the nominee. I shall be highly obliged if you may kindly examine the matter at your level and see that the claim matter is settled without any further loss of time as already 6 or 7 years has lapsed since the submission of the claim forms by the nominee."

However, in spite of it the claim of the complainant was not settled. She continued writing letters to the higher-ups in the Corporation as well as to the Minister of Finance, Government of India and the Speaker of the Lok Sabha. Lastly the Complainant got a letter published in the Editor''s column of newspapers Jansatta and Indian Express dated 2nd July, 1990 about her misery. On 2nd July, 1990 Zonal Manager, on reading the letter published in Jansatta, informed the Complainant that a copy of the letter was being sent to the Muzaffarpur Divisional Office for necessary action. The matter was also taken up by a couple of Members of Parliament with the Finance Minister, Government of India. On reading those letters published in the newspapers on 8th August, 1990, Deputy Secretary (Mktg./PS) of the Life Insurance Corporation wrote a letter to the Complainant. The relevant portion of the letter reads as follows: "We have received a copy of your complaint dated 10.7.1990 addressed to the Finance Minister, through the Ministry of Finance, Government of India, New Delhi. We have already taken up the matter with the Sr. Divisional Manager, Muzaffarpur D.O. and we have sent him a reminder today, advising him to give immediate attention to your complaint."

The above narration of facts shows that the Corporation woke up from the long slumber only when the matter was taken up by the Finance Minister, Government of India. Thereafter, the Life Insurance Corporation on 19th November, 1990 wrote a letter to the Complainant informing her that the liability under the policy has been admitted by them on ''ex-gratia basis''. Along with that letter a voucher of discharge was also sent for being executed by the claimant to enable the Corporation to arrange for payment of Rs. 50,310/- by a cheque. It may be mentioned here that in that letter it was not at all made clear why the liability has been admitted on ex-gratia basis. On that voucher which was to be executed by the complainant in full satisfaction of the claim under the policy, she made a

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mention about her being entitled to penal interest and then executed the voucher and sent it back. On December 13,1990 another voucher for execution was sent to the Complainant asking her not to make any additions or alterations. It appears that being frustrated by the conduct of the Corporation, the claimant executed the voucher and sent it back to the Corporation. A cheque for Rs.50,310/- was then sent to the complainant by the Corporation with a covering letter dated 4th February, 1991. Thereafter, the Complainant served a notice through a counsel upon the Corporation narrating her tale of woe and harassment and claimed the following amounts from the Corporation. 1. (a) Interest on the insured amount i.e. Rs. 50,000/- @ 15% for the period of 13 years (11.1.1977 to 4.2.1991) Rs. 2,89,125/- (b) Bonus for the period of 24 years - (c) Expenses incurred in pursuance of the claim. Rs. 10,000/-

2.Compensation for the following: (a) Mental torture Rs. 1,00,000/- (b) Physical harassment Rs. 1,00,000/- (c) Economical suffering Rs. 1,00,000/- (d) Loss of business Rs. 5,00,000/-

The Corporation chose to ignore that notice. Thereupon, the Claimant filed the present complaint complaining about the negligence on the part of the Corporation in the rendering of the service. She prays for the aforementioned amounts. She also added one more item for Rs. 7,884/- as bonus on the amount assured.

3. THE Corporation contested the complaint. In their counter they have pleaded that the Complainant had received the sum of Rs. 50,310/- against receipt in full and final settlement of her claim under the policy in question. It was also pleaded that complaint was time barred as the assured had died on 11th January, 1977and the complaint was being filed in 1992. On merit it was pleaded that at the time of taking the policy the assured had suppressed and concealed material facts with regard to his state of health. That in fact as per the investigations carried out by the Officer of the Corporation the deceased was admitted in Darbhanga Medical College and Hospital on 28th July, 1975 under registration serial No. 277.

4. WE have heard the learned Counsel for the parties. It has to be mentioned at the outset that the conduct of the Corporation in this case has been thoroughly objectionable and unfair. The complainant who is a widow had to fight for her claim under the policy for about 14 years. She had to approach high Officers in the Corporation as well as the Finance Minister, Government of India and also to get published letters in the editorial columns of Jansatta and Indian Express before the Corporation ultimately woke up. In the counter it is mentioned that the assured had suppressed and concealed material facts. It is not clear from the counter that at what point of time the Corporation came to know about the alleged admission of the assured in the Darbhanga Medical College and Hospital on 28th July, 1975 under registration serial number 277. No documentary evidence has been filed about the alleged admission of the assured in the said Medical College and Hospital nor it is stated as to what was the nature of the

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disease the assured was suffering from at the time of his alleged admission.

5. AT no point of time the claim of the Complainant was properly investigated nor was it brought to the Complainant''s notice at any time that the assured had suppressed or concealed any material fact at the time of submitting the proposal for insurance. The Corporation did not also repudiate the claim at any time. If any material fact had been suppressed or concealed by the assured at the time of taking the policy the Complainant ought to have been informed about that. However, this was not done. In the voucher earlier sent for execution to the Complainant the words "ex-gratia" have not been used. The Complainant wrote on the voucher "the penal interest on the above amount should also be paid to me" and signed below that endorsement. The Corporation sent another voucher Photostat copy of which is at page 55. In that the words "on ex-gratia'' basis were introduced. As noticed above Complainant signed that voucher in utter frustration and under duress and coercion as otherwise the Corporation was unwilling to pay her even the amount of Rs. 50,310/- after the long lapse of time. We hold that in the present case the Corporation has been highly negligent in the performance of its services. The Complainant has suffered hardship and loss on account of the deficiency in service. We hold that the Complainant is entitled to recover interest @ 12% per annum on the amount of Rs. 50,310/- from the date of expiry of three months from the death of the assured till the amount was paid to her on 4th February, 1990. The signing of the discharge voucher by the Complainant will not disentitle her to claim interest since we have found that she had executed the receipt under duress and coercion. The Complainant is also awarded Rs. 15,000/- as compensation for mental torture and harassment. She is also awarded Rs. 3,000/- as her costs of the present proceedings. Her claim in respect of other items is disallowed.

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