(2013) 07 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

MANAGING DIRECTOR , Managing Director Cholamandalam Ms. General Insurance Co. Ltd. — APPELLANT

Vs

Borredy Pragahi — RESPONDENT

Date of Decision : 05-07-2013

Acts Referred:

Citation : 2013 0 NCDRC 514 : 2013 3 CPJ 541

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Final Decision : Petition is dismissed

Judgement

1. THE Revision Petition is filed against the Impugned Order of Andhra Pradesh State Commission Disputes Redressal Commission, Hyderabad (in short, State Commission, AP) in First Appeal Number 827 of 2011 against the Consumer Complaint No. 44/2011 of District Consumer Disputes Redressal Commission, Kadapa (in short District Consumer Forum).

2. THE Facts In Brief are: The Complainant/Respondent herein was Ms. Borredy Pragahi a medical student of Nanjing Medical University,China took Overseas Student Travel Insurance Policy from the respondent for a sum of US $.1,00,000/- covering from 25.02.2007 to 24.02.2009. She got admitted in Jiang Hospital,Nanjing for treatment of iliac fossa pain, fever and nausea where she was diagnosed as Right Oopheritis, Menstrual Syndrome and Acute Appendicitis and treated accordingly. She returned back to India on 16.01.2009 to visit her parents. Thereafter, she suffered similar attacks of pain as suffered in China for which she was operated on emergency basis at Pragathi Orthopaedic and General Hospital, Karapa on 10.02.2009. The said treatment incurred Rs.64,282/- as expenditure. The claim made with the Respondent, which was repudiated on the ground that said operation was not conducted in China. Therefore, she was not entitled for the claim amount. Against this repudiation the Complainant filed a Complaint before District Forum on 25/2/2011 claiming Rs.64,282/- together with interest 24 per cent per annum, Rs.50,000/- towards mental agony and cost.

3. THE respondent resisted the case. While admitting the issuance of policy, it

was alleged that the Complainant having taken treatment at Kadapa was not entitled to the amount covered under the policy. In fact, she was paid as amount of Rs.25,805/- towards treatment she underwent in China, which was paid towards full and final settlement of the claim. The surgeon, who conducted surgery, is none other than her own father. Therefore, it prayed for dismissal of the Complaint with costs.

4. THE District Forum dismissed the Complaint. The Complainant preffered the Appeal in the State Commission. The State Commission set aside the order of District Forum and allowed the appeal. Being aggrieved by impugned order of State Commission petitioner herein filed this revision petition on 14/12/2012.

5. WE have heard the learned counsel for both the sides and perused the evidence on record before District forum and State Commission.

6. IT is an undisputed fact that the Opposite party - the Insurance Company had issued an Overseas Student Travel Insurance Policy, Ex.B.1 for a sum of US $ 1,00,000/- covering the period from 25.02.2007 to 24.02.2009. It is not in dispute that during the above said period, she had taken treatment at China and the amount which she incurred towards treatment was paid. Her case was that after she returned to India, an emergency Appendicectomy operation was conducted on 10.02.2009,. This is evident on perusal of discharge summary that the diagnosis was "Acute Recurrent Appendicitis " and she incurred a sum of Rs.64,282/- towards medical expenses. When she requested for settlement of claim, the Insurance Company repudiated it by issuing letter, Ex.B.2 alleging that she would not be entitled to the said amount if the operation was performed in India. On perusal of the policy condition under section B which is as follows: "Section B-Cover 1. Medical expenses- 1) Under Medical Evaculation/ Transportation: 1) the transportation of the insured from that overseas country to India or the place of residence where necessary medical attention can be provided; the coverage for medical treatment will be up to the limit of indemnity for medical expenses for maximum period of 30 days from the date of return. " (emphasis supplied)

7. THE Pragathi Hospital records like In-Patient Case Sheet, Discharge Summery where the Complainant underwent emergency operation on 10.02.2009 and it ''s evident that operation was within 30 days of her return from China that is on 16.01.2009. Therefore, the Insurance Company is bound to reimbursement the amount paid by Complainant towards the hospitalization expenses. The repudiation was unfair and is unjustifiable. Therefore, we agree with the findings of State Commission in allowing the appeal filed by the Complainant.

8. THEREFORE , we upheld the order of State Commission and pass the order- The Revision Petition is dismissed with a punitive cost of Rs.25,000/- which is to be paid to Complainant within 45 days otherwise it will carry 9% interest per annum, till its realization.

