(2014) 02 NCDRC CK 0021

In the National Consumer Disputes Redressal Commission

MAX NEW YORK LIFE INSURANCE CO. LTD. — APPELLANT

Vs

Amaresh Reddy — RESPONDENT

Date of Decision : 05-02-2014

Acts Referred:

Citation : 2014 0 NCDRC 403 : 2014 2 CPJ 67

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

Judgement

1. SMT . Shardhamma, the mother of the Complainant took a life insurance policy for sum assured Rs. 4,65,034 from Max New York Life Insurance Co. Ltd. (opposite party), the commencement of risk was from 22.5.2009. The Complainant was a nominee to the said policy. The insured Shardhamma died on 11.11.2009. The Complainant submitted claim with relevant documents before the OP seeking policy benefits. The claim was repudiated on the ground of suppression of material facts as the deceased was suffering from pre -existing disease. The complainant alleged that the OP issued the policy and collected the premium after conducting all the medical tests of the policy holder. Hence, filed a complaint before District Consumer Disputes Redressal Forum (in short, ''District Forum'') alleging the act of OP as deficiency in service and for unjustified repudiation. Complainant prayed for the policy benefits and compensation. The District Forum partly allowed the complaint and directed the OP to pay Rs. 4,65,034 with interest at 6% p.a. from the date of complaint, along with Rs. 1,000 towards litigation expenses.

2. THE said order was challenged by OP through filing an appeal in FA/1198/2011 before State Consumer Disputes Redressal Commission (in short, ''State Commission''). The State Commission dismissed the appeal; hence the OP preferred this revision.

3. WE have heard Counsel for both parties. The Counsel for complainant argued that there was no material concealment and the OP had issued the policy after proper medical tests and medical examination of Shardhamma. Both the Fora have correctly decided this case, and gave concurrent findings in the favour of

Complainant. The Counsel for OP/petitioner vehemently argued that, based on the information provided and declaration made in the Proposal Form, the Policy was issued to the DLL He brought our attention to Annexure P -4, the medical records of Government General Hospital, Kurnool supplied by the Complainant during the evaluation of claim. It has been confirmed that the DLI was a known case of Rheumatic Heart Disease (RHD) with Severe Mitral Stenosis with Tri -cuspid Regurgitation with Pulmonary Arterial Hypertension since 4 years, i.e. prior to the signing of proposal form. Hence, the OP repudiated the claim on ground of suppression of material facts.

4. WE are convinced by the arguments of Counsel for OP and also it is clear from perusal of District Hospital medical records pertaining to the deceased, who suffered heart valve ailments (RHD) prior to taking the policy. This amounts to material medical non -disclosure. We place reliance upon several judgments of Hon''ble Supreme Court and this Commission. In the case of Satwant Kumar Sandhu v. New India Assurance Co. Ltd.,, VI (2009) SLT 338 :, IV (2009) CPJ 8 (SC) :, (2009) 8 SCC 315, the Supreme Court observed that in a contract of insurance, any fact which would influence the mind of a prudent insurer in deciding whether to accept the risk is a material fact. If the proposer has knowledge of such fact, he is obliged to disclose it particularly while answering questions in the proposal form. Needless to emphasize that any inaccurate answer will entitle the insurer to repudiate his liability because there is clear presumption that any information sought far in the proposal form is material for the purpose of entering into a contract of insurance.

Similar view was taken, in another case, PC Chacko and Anr. v. Chairman, Life Insurance Corporation of India and Others, : IV (2007) CLT 229 (SC) : IX (2007) SLT 533 : III (2008) CPJ 78 (SC) : IV (2007) ACC 773 (SC) : (2008) 1 SCC 321, wherein the Hon''ble Supreme Court has upheld repudiation of the contract of insurance on the ground of non -disclosure and misstatement in the proposal form to the various questions to which the answers were given by the insured.

In view of forgoing discussions, we allow this revision petition and dismiss the complaint by setting aside the order passed by the both the Fora below. Parties are directed to bear their own costs.

