(2014) 08 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

MAX NEW YORK LIFE INSURANCE CO. LTD. APPELLANT

Vs

Reena Singh RESPONDENT

Date of Decision : 07-08-2014

Acts Referred:

Citation : 2014 0 NCDRC 505 : 2015 1 CPJ 214

Hon'ble Judges : J.

Final Decision : Petition allowed

Judgement

1. THESE revision petitions arise out of the common order passed by the learned State Commission involving same question of law; hence, decided by common order.

2. THESE revision petitions have been filed by the petitioner against the order dated 21.3.2013 passed by the State Consumer Disputes Redressal Commission, UT Chandigarh (in short, ''the State Commission'') in Appeal No. 17 of 2013 - Ms. Reena Singh Vs Max New York Life Ins. Co. Ltd. and in Appeal No. 18 of 2013 - Ms. Reena Singh Vs. Max New York Life Ins. Co. by which, while allowing appeals, orders of District Forum dismissing complaints were set aside and complaints were allowed. Brief facts of the cases are that complainants/ respondents purchased Capital Builder 15 years Unit Linked Policy from OPs/ petitioners and paid three regular premium of Rs.50,000/ - in each complaint. At the time of taking the said policy, the OP assured that complaint''s premium would be doubled after 3 years. Complainant only put her signatures on the form, which was not filled by her and terms and conditions of the policy were not brought to her notice. After expiry of three years, complainant visited office of OP for withdrawal of amount, but she was shocked to know that she would be refunded the amount after deduction of more than 50% of the amount deposited. On the assurance of OP, in order to get full paid up premium, she further made investment of Rs.20,000/ - in another policy; namely, Base Policy 10 years endowment Plan. Inspite of repeated requests, deposited amount was not refunded by OP. Alleging deficiency on the part of OP, complainant filed two

complaints before District Forum. OP resisted complaints and admitted issuance of policies, but submitted that complete policy documents containing terms and conditions of the policy were delivered to the complainant. It was further submitted that OP issued policy on the basis of proposal form submitted by the complainant. Complainant, if not satisfied with the policy could have applied for cancellation of the policy within 15 days free look period from the receipt of policy, but she did not avail this option. It was further submitted that after 19.11.2008, complainant did not pay regular premium, as such, policy lapsed and intimation was given to her; hence, full deposited amount was not refundable and prayed for dismissal of complaint. Leaned District Forum after hearing both the parties dismissed complaints. Complainant filed appeal before State Commission and learned State Commission vide impugned order allowed appeals and directed OP to pay complainant Rs.1,46,000/ - in Complainant No. 370/12 and Rs.1,71,000/ - in Complaint No. 371/12 and further allowed Rs.10,000/ - as compensation and Rs.5,000/ - as cost of litigation in both the complaints against which, these revision petitions have been filed.

3. RESPONDENT No. 2''s name was deleted at the request of petitioner.

4. HEARD learned Counsel for the petitioner and Respondent No. 1 finally at admission stage and perused record. Learned Counsel for the petitioner submitted that as policies taken by complainant lapsed due to failure of depositing premium, learned District Forum rightly dismissed complaint and learned State Commission committed error in allowing appeal; hence, revision petition be allowed and impugned order be set aside. On the other hand, learned Counsel for the Respondent No. 1 submitted that order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

5. IT is not disputed that complainant purchased two policies from OP and deposited premium for three years and after that premium was not deposited. As per version of OP, policy lapsed for want of premium and learned Counsel for the Respondent has not placed any material on record to substantiate that after three years, any premium has been paid to continue the policies. In such circumstances, it can very well be inferred that policies lapsed on account of non - depositing requisite premium. As policy lapsed, complainant was entitled to get only paid up value of the policy as per Rules and not the full deposited amount. Learned State Commission based its judgment on Insurance Regulatory and Development Authority (Treatment of Discontinued Linked Insurance Policies) Regulations, 2010, which were notified vide Notification dated 1.7.2010 and held that in the light of this Notification, complainants are entitled to get refund and allowed complaint.

6. REGULATION 1(2) of this Notification runs as under: (2) They shall come into force on the date of their publication in the Official Gazette and shall apply to all products of linked life insurance cleared by the Authority thereafter.

Thus, it becomes clear that this Notification is applicable to the policies cleared by Authority after 1st July, 2010, whereas policies issued in favour of the complainant pertains prior to 1st July, 2010. In such circumstances, this notification was not applicable to the lapsed polices of complainant and learned State Commission committed error in allowing complaints on the basis of Notification dated 1st July, 2010 and complainants are entitled to get paid up value as per rules applicable to the policies at the time of issuance of policies.

Consequently, revision petitions filed by the petitioners are allowed and impugned orders dated 21.3.2013 passed by learned State Commission in Appeal No. 17 of 2013 - Ms. Reena Singh Vs Max New York Life Ins. Co. Ltd. and in Appeal No. 18 of 2013 - Ms. Reena Singh Vs. Max New York Life Ins. Co. are set aside with no order as to costs.

