(2014) 03 NCDRC CK 0038

In the National Consumer Disputes Redressal Commission

Megarthi Malik APPELLANT

Vs

LIFE INSURANCE CORPN. OF INDIA RESPONDENT

Date of Decision : 21-03-2014

Acts Referred:

Citation : 2014 0 NCDRC 174

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Advocate : Jatin Sapra , U.C.MITTAL

Judgement

1. THIS appeal has been filed by the appellant against the order dated 10.06.2009 passed by the Uttarakhand State Consumer Disputes Redressal Commission, Dehradun (in short, ''the State Commission '') in CC No. 05 of 2005 - Megarthi Malik Vs. Life Insurance Corpn. of India & Anr. by which, while dismissing complaint, complainant was allowed to seek remedy in the civil court.

2. BRIEF facts of the case are that complainant/appellant ''s uncle Vinod Kumar obtained insurance policy from OP -respondent for a sum of Rs.10,00,000/ - on 28.3.2003 and complainant was nominee in the policy. Assured died in the road accident on 17.5.2003. Complainant submitted claim, but OP repudiated claim on the ground of deliberate mis -statement and withholding correct information regarding income. Assured had income of Rs.4,30,000/ - p.a. from agriculture, milk business and purchase and sale of old tractors. Alleging deficiency on the part of OP, complainant filed complaint before State Commission. OP resisted complaint and submitted that brother of deceased reported that complainant ''s uncle Vinod Kumar ''s death did not occur on account of accident, but he was murdered and his income was only Rs.55,000/ - p.a. It was further submitted that insurance for huge sum was taken by insured with malafide intention and claim involves complicated and complex questions of fact which cannot be adjudicated in summary proceedings and prayed for dismissal of complaint. Learned State Commission after hearing both the parties dismissed complaint and allowed complainant to avail remedy from the competent court of civil jurisdiction against which, this appeal has been filed. Heard learned Counsel for

the parties and perused record.

3. LEARNED Counsel for the appellant submitted that it was a clear case of deficiency in service in repudiating insurance claim even then State Commission committed error in dismissing complaint and directing complainant to seek remedy from the civil court; hence, appeal be allowed and impugned order be set aside and amount of policy may be awarded to him. On the other hand, learned Counsel for the respondent submitted that order passed by learned State Commission is in accordance with law; hence, appeal be dismissed.

4. NORMALLY insurance coverage is taken either for the security of family members or for tax saving. Admittedly, assured was unmarried and he was also not income tax payee. Perusal of record further reveals that within two months of obtaining policy assured Vinay Kumar @ Vinod Kumar died under mysterious circumstances and learned State Commission rightly observed as under: ''''Having heard the learned counsel for the parties in the light of the facts, circumstances, material on record and the legal aspects of the case, we may state at the outset that the claim under the above policy of insurance involves complicated and complex questions of fact, which are pregnant with meaningful suspicion and, therefore, the complaint based on such facts, cannot be adjudicated in summary proceedings and the complainant is to be relegated to seek remedy as is available to him according to law from a competent court of civil jurisdiction. To avoid recording of any expression of opinion, we prefer to detail following glaring aspects of the case, those persuaded us to arrive at the above -mentioned conclusion: (a) Sh. Vinay Kumar @ Vinod Kumar aged about 49 years purchased the insurance policy for the first time in his life and for a huge sum of Rs. 10,00,000/ -. (b) He was resident of Village Brahampur, Post Office Gurukul Narsan, District Haridwar of State of Uttarakhand and whereas, the proposal for purchasing the policy of insurance was made from Tehsil Deoband, District Saharanpur in the State of Uttar Pradesh and reason for which was not brought to light. (c) Life assured had shown his annual income as Rs. 1,80,000/ - from agriculture, as against which, on the basis of the revenue records, the revenue authorities, on inquiry, submitted report with the insurer that the annual income of Sh. Vinay Kumar from agriculture was Rs. 55,000/ -. (d) The policy for sum of Rs. 10,00,000/ - carried annual premium of Rs. 60,858/ -, as against annual income on investigation found to be Rs. 55,000/ - only. (e) Policy of insurance commenced from 28.03.2003 and the life assured allegedly died under suspicious circumstances in less than two months in a motor accident on 17.05.2003. (f) Complainant lodged the FIR after four days on 21.05.2003, stating therein that his uncle, the life assured had left the house in the evening of 16.05.2003 by saying that he is going out of village for three or four days. It was not mentioned as to what was the destination or the place where the life assured wanted to visit for these 3 - 4 days. Report further states that one Sh. Rampal Singh, Ex -Pradhan of Village Mannakheri told the complainant that on 17.05.2003, a person met with a motor accident and dead body of the victim had been taken away by police of P.S. Mangalour. The complainant thereafter went to

the police station and alleged to have identified from the photograph and clothes that the victim was his uncle, the life assured. (g) Sh. Rampal, who was alleged to have given information about the motor accident, filed affidavit and though knew the complainant from before, did not make an averment that after accident, the life assured was identified by him. His credentials and correctness of the statement need probe on oral examination on oath. (h) Post -mortem report of an unknown male mentioned the cause of death as shock and hemorrhage due to antemortem injuries, which needed to be affirmed from the statement of the medical officer as to whether or not the antemortem injuries were caused in a motor accident. (i) None has been named or mentioned as eye - witness of the alleged motor accident, in which the life assured allegedly suffered injuries, resulting in his death. (j) Life assured had three brothers, one of whom Dr. Prem Chand Shastri, during investigation by the LIC, came forward and averred in the affidavit that life assured was unmarried; that the life assure was being treated and kept just like a domestic servant by another brother Vijender, whose son is the complainant - nominee and that probably the death of life assured was homicidal and not as a result of injuries in a motor accident. (k) This brother of the life assured also submitted a representation with the Senior Superintendent of Police, Haridwar on 07.06.2003, wherein serious doubts were raised about the death of a person, who was stated to be the life assured and he apprehended that probably his brother, the life assured was murdered. (l) Complainant and two witnesses Sh. Ranjeet Singh and Sh. Kanwarpal in their affidavits averred that the life assured had other source of income, namely, from purchase and sale of the old tractors and from milk business and their claim also need probe on their oral examination on oath. (m) The claim, after investigation was repudiated by the LIC and the view was also upheld by the Zonal Committee of LIC after consideration of all relevant facts ''''.

Looking to the various aspects to be considered while deciding complaint, learned State Commission rightly dismissed complaint and directed complainant to seek remedy from competent court of civil jurisdiction. This Commission in Complaint No. 217/2006 - Bhagwanji D. Patel and Anr. Vs. The Chairman and Managing Director, Indian Bank decided on 6.5.2011 after referring following judgments of Hon ''ble Apex Court - (2000) 2 SCC 1 - Synco Industries Vs. State Bank of Bikaner and Jaipur and Ors. and 2006 (134) Company Cases 103 (SC) - Oriental Insurance Co. Ltd. Vs. Muni Mahesh Patel directed complainant to approach civil court of competent jurisdiction.

5. LOOKING to the complex question of death of assured in mysterious circumstances and other factors mentioned in the order of learned State Commission, we do not find any illegality in the impugned order and appeal is liable to be dismissed.

6. CONSEQUENTLY , appeal filed by the appellant is dismissed with no order as to costs.

