(1993) 04 NCDRC CK 0086

In the National Consumer Disputes Redressal Commission

National Insurance Co. Ltd. — APPELLANT

Vs

P.B. GUPTA — RESPONDENT

Date of Decision : 27-04-1993

Acts Referred:

Citation : 1994 2 CPJ 519

Hon'ble Judges : S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal filed by Opposite Party-Appellants, the insurer (for short ''the insurer'').

2. CASE of complainant is that he had obtained a policy from the insurer known as Mediclaim-Hospitalisation And Domicilary Hospitalisation Benefit Policy (for short ''the Mediclaim Policy'') under which the risk was covered for meeting the medical expenses. Earlier, claims were being made and were being settled. In respect of one such claim, there was dispute and the matter was referred to arbitration which is now pending in Court for making the award a rule of Court. Complainant made a claim on 20th April, 1983 for an amount of Rs.4,000/-. Insurer did not settle the claim and kept it pending for long for which reminders were to be sent to them. Two months after on 1.6.90, Opposite Party No. 1 replied that all papers were being forwarded to Opposite Party No. 2 advising them to take up the matter immediately. When no further action was taken complaint was filed on 15.1.91. Case of Opposite Parties is that the matter is subjudice before the Court on account of arbitration and accordingly, this complaint should not be entertained.

District Forum on perusal of the documents filed and after hearing parties was satisfied that the claim in respect of which complaint has been made for deficiency in service, does not relate to the proceeding before the Court. Accordingly, it directed payment of compensation of Rs. 4,000/- towards deficiency in service. Opposite Parties have preferred appeal against such direction.

3. THIS is one of the illustrative cases where Opposite Parties are casual not only in the matter of dealing with claims of the insured but also in staring its case before the District Forum. THIS casualness of officers of Opposite Party No. 1 itself is sufficient to draw an inference of negligence. A backward presumption is possible in such circumstances. No material has been produced either before District Forum or before this Commission to show that the claim of Rs.4,000/- made by complainant on 20.4.1988 is subject-matter of arbitration. Accordingly, non-payment of legitimate claim on erroneous ground is negligence and District Forum is correct in its approach to direct payment of compensation.

4. MONEY is spent to cover medical expenses by persons. High hopes are given by the insurers that their claim should be settled early. In such circumstances, we hope that Mediclaims should in future be dealt with at an early date carefully. We would have taken a serious note of the lapses in this case if complainant would have filed an appeal. Once he is satisfied with the amount of Rs. 4,000/- as directed, we are not inclined to exercise our revisional power. Since the amount of compensation appears to be grossly inadequate, we would have exercised our re-visional power as the District Forum has not kept in mind the ingredients to be proved in the case for giving a direction. We hope that in future the District Forum shall take note of the ingredients and try to give findings on basis of materials available. In result, since the appeal has no merit, the same is dismissed. We are glad that though on principle appeal has been filed, the amount directed to be paid by the District Forum has been paid by the insurer. This should be attitude of insurers in all complaints filed against them. Appeal dismissed.

