(2002) 12 NCDRC CK 0098

In the National Consumer Disputes Redressal Commission

New India Assurance Co. Ltd. APPELLANT

Vs

AMBALAL CHANDULAL SHAH RESPONDENT

Date of Decision : 13-12-2002

Acts Referred:

Citation : 2003 1 CPJ 237

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS revision petition arises out of the order of the State Consumer Disputes Redressal Commission, Maharashtra, whereby the State Commission upheld the order of the District Forum. Though it is not necessary to go deep into the details of the matter, still for the disposal of this case, we mention the facts in brief which are as follows :

2. THE complainant was the holder of the mediclaim insurance policy for the period 1.2.1994 to 31.1.1995. He then extended the policy from 1.2.1995 to 31.1.1996. According to the complainant at the time of submitting the proposal form he had mentioned that he was "mildly hypertensive 140/90" and he was then issued the policy which was renewed latter on. In the month of July, 1995 the complainant underwent coronary angiography at Breach Candy Hospital, Mumbai, and he was then required to be admitted in the same hospital on 18th July, 1995 for coronary by pass surgery and was discharged on 30th July, 1995. He submitted his claim for reimbursement of the expenses incurred, but the opposite party vide its letter dated 5th February, 1996 repudiated the claim on the ground that the claim falls under exclusion No. 4.13 of the policy. According to the complainant this repudiation is not proper as he had made a clear disclosure of the hupertension while submitting the proposal form. It may be mentioned here that the Insurance Company did not care for the repeated notices issued from the District Forum and remained absent all through. Hence the District Forum upon considering the material produced before it, rendered its decision.

Feeling aggrieved by the order of the District Forum, the Insurance Company went in appeal to the State Commission. The State Commission while disposing of the case held as under : "Notwithstanding the Insurance Company chose to remain present before the District Forum or file any written statement. Thus it would be noticed that requisite opportunities as required under the statute were provided to the Insurance Company but they have failed to avail of the same. We have perused the grounds set out in the memo of appeal and we do not find any explanation having been offered as to why the Insurance Company has not availed of these opportunities provided to it as required under the Statue by appearing and filing written statement etc."

In view of the above discussion, the State Commission upheld the order of the District Forum as it found no merit in the reasoning put forward before it for its non-appearance before the District Forum.

3. NOW the Insurance Company is petitioner before us in revision. One of the pleas advanced before us by the Insurance Company is that the petitioner is a very big company having several regional offices and the notices if at all severed, might have been served in the wrong offices and the said notice never came to the notice of the concerned official of the petitioner''s office and hence the appellant did not enter appearance before the District Forum on 13th December, 2001 and the District Forum chose to hear ex parte and passed the Order without any written submission by the Insurance Company on file. The other plea of the Insurance Company is that the Fora below erred in considering the fact that the Insurance Company is a Government of India undertaking and the State exchequer ought not to be penalised due to the fault of the Advocate who did not appear and hence the orders of the Fora below shall be set aside. Heard the learned Counsel for the Insurance Company. We are not at all impressed by the attitude of the Insurance Company in dealing with the matter before the Fora below. The Insurance Company should have at least made an appearance before the District Forum, which it did not do. Moreover, as has been held by the State Commission, the District Forum has gone into the matter on the basis of the record available to it very carefully and passed the order on merits. We do not find any merit in the contentions of the Insurance Company. For the reasons stated above we do not find it to be a fit case to interfere with the impugned order in our revisional jurisdiction under Section 21(b) of the Consumer Protection Act, 1986. We dismiss the revision petition and uphold the orders of the Fora below. Revision Petition disissed.

