

(2003) 01 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

New India Assurance Co. Ltd.

APPELLANT

Vs

YADVALLI GANGADEVI

RESPONDENT

Date of Decision : 15-01-2003

Acts Referred:

Citation : 2004 1 CPJ 263 : 2004 2 CPR 54

Hon'ble Judges : P.Ramakrishnam Raju , Mamata Lakshmana , C.P.Suresh J.

Final Decision : Appeal dismissed

Judgement

1. THE unsuccessful third opposite party in O.P. No. 318/1995 on the file of the District Consumer Forum, East Godavari at Kakinada, is the appellant before this Commission.

2. THE facts in brief are, the opposite party Nos. 1 and 2 have a tie-up with the third opposite party. THE deceased Gopal, the brother of the complainant, obtained an Endowment Policy bearing No. 09846921/910, dated 15.2.1993 on an yearly premium of Rs. 3,600/- through opposite party Nos. 1 and 2. THE complainant is the nominee under the policy. Opposite party Nos. 1 and 2 have a tie-up with the third opposite party Insurance Company covering the risk of the policy holder in the event of death. THE said Gopal went to Morbi in Gujarat State on a business trip and was accidentally drowned in a swimming pool and died there on 29.7.1993. THE death was intimated to the second opposite party and on his request the death certificate, post-mortem certificate, inquest panchanama copies were sent for settlement of the claim and the third opposite party through its letter dated 25.8.1994 requested the complainant to send the FIR and the final investigation report. All the records supplied by the police were sent to the opposite parties. THE third opposite party sent a repudiation letter without assigning any reason. THE complainant, thereupon, approached the District Forum. The first opposite party filed its written version admitting the issuance of Endowment Certificate and its tie-up with the third opposite party and pleaded that it is for the third opposite party to settle the claim and there is no deficiency in service on its part. The second opposite party filed a memo

adopting the counter of first opposite party.

The third opposite party filed its written version admitting the tie-up with the opposite party Nos. 1 and 2 and their liability to pay the insured amount in case of death and disablement with personal accident. It is further averred that though the complainant has sent some documents, when they insisted for production of the FIR and the final investigation report, she has failed to furnish the same and as the final investigation report would show the exact cause of death and as it was not furnished they have repudiated the policy.

3. BASING on these pleadings and the evidence adduced, the District Forum held that there was deficiency in service on the part of the third opposite party and directed it to pay an amount of Rs. 63,108/- together with interest at 18 per cent per annum from the date of death till the date of payment, besides costs. The complaint against opposite party Nos. 1 and 2 was dismissed. Aggrieved by the said finding and order, the third opposite party has preferred this appeal.

4. THE point for consideration is, whether there is any deficiency in service on the part of the third opposite party ? The facts which are not in dispute are that the complainant is the nominee under the Endowment Certificate obtained by the deceased Gopal from the third opposite party, through opposite party Nos. 1 and 2, and the deceased Gopal died at Morbi in Gujarat State due to drowning in a swimming pool on 29.7.1993. The complainant has submitted the FIR, P.M. Certificate and the inquest report. The third opposite party has directed the complainant to produce the final investigation report, which the complainant could not produce inspite of her best efforts to obtain it from the Morbi Police Department. The post-mortem report as well as the inquest report clearly showed that death was due to drowning. In these circumstances, there is no need for the third opposite party to insist on the production of final investigation report. The District Forum has rightly allowed the complaint. However, the rate of interest is reduced from 18 per cent to 9 per cent per annum. With this modification, the appeal is dismissed with costs of Rs. 1,000/-. Time for payment six weeks. Appeal dismissed.