

(2015) 02 NCDRC CK 0087

In the National Consumer Disputes Redressal Commission

NEW INDIA ASSURANCE COMPANY LIMITED

APPELLANT

Vs

Ishu Motwani

RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:

Citation : (2015) 02 NCDRC CK 0087

Hon'ble Judges : B.C.Gupta , M.SHREESHA J.

Advocate : SALIL PAUL , N.Jayachandran

Judgement

1. THIS Revision Petition, by the Petitioners, calls in question the correctness and legality of order dated 4.4.2014 passed by the Karnataka State Consumer Disputes Redressal Commission, (in short, "the State Commission") in Appeal No. 234 of 2014 New India Assurance Co. Ltd. and Anr. vs. Ishu Motwani. By the said order, the State Commission confirmed the order of the District Forum and dismissed the Appeal at the stage of Admission.

2. THE brief facts of the case as set out in the complaint are that the complainant had taken the "Goodhealth Group Mediclaim Policy" which has been in force from 01.09.2003 and the complainant was experiencing severe pain in both knee joints and underwent treatment using Sequentially Programmed Magnetic Field Therapy (SPMF Therapy) at SBF Healthcare and Research Centre. The Opposite Parties were duly intimated regarding the treatment and a sum of Rs.1,13,089.50/ - was spent for which the complainant lodged the claim on 10.01.2013. The Opposite Parties repudiated the claim vide letter dated 27.02.2013 on the ground as per clause 4.4.17 such treatment is not covered under the Policy. The District Forum allowed the complaint in part directing O.P. nos. 1 and 2 to reimburse Rs.1,13,089.50/ - to the complainant together with cost of Rs. 20,000/ -.

3. AGGRIEVED by the said order, the Opposite Parties preferred Appeal No. 234 of 2014 before the Karnataka State Consumer Disputes Redressal Commission, Bangalore. The delay of 39 days was condoned and the State Commission observed that the line of treatment taken by the complainant is an experimental

one and the complainant has taken treatment as an outpatient for one hour every day followed by Physiotherapy for half an hour continuously for 21 days consecutively. Holding that the Insurance Company has repudiated the claim on technical grounds, the State Commission confirmed the order of the District Forum and dismissed the Appeal at the stage of Admission. Aggrieved by this order, the Opposite Parties preferred this Revision Petition before this Commission.

4. IT is the case of the Revision Petitioners that the treatment which the Respondent has taken does not fall within the purview of the Policy. The Respondent was treated for Osteoarthritis of both knee using Sequentially Programmed Magnetic Field Therapy (SPMF Therapy TM) for 21 days consecutively in the SBF Healthcare and Research Centre. During this treatment, the affected joints were treated in the AKTIS TM machine for one hour followed by physiotherapy for 1/2 hour and observation for 1 1/2 hours. The said treatment was taken from 21.12.2012 to 10.01.2013. The Respondent made a claim of Rs.1,13,089.50/-, which was repudiated by the Revision Petitioners under Exclusion Clause 4.4.17 which reads as under: "All treatment like age related Muscular Degeneration (ARMD) AND OR Choroidal Neo Vascular Membrane done by administration of Lucentis/Avantis/Macugen/Avastin and other related drugs as intravitreal injection, Rotational Field Quantum Magnetic Resonance (RFQMR), External Counter Pulsation (ECP) and Hyperbaric Oxygen Therapy".

5. THE Learned counsel for the Revision Petitioners drew our attention to RFQMR, i.e. Rotational Field Quantum Magnetic Resonance treatment which is excluded. We observe from the record that SPMF treatment which the complainant had undergone is not specifically excluded and it is stated before us that this treatment involves therapy where cartilage is regrown and this helps in slowing down the degenerative Arthritis.

6. BRIEF perusal of the Policy shows that it is a Goodhealth Policy Certificate issued on 1.9.2012 to the insured who is 61 years of age. Issuing a Policy to a person of 61 years of age and then stating that "age related diseases" are excluded amounts to unfair trade practice. When SPMF Therapy is not specifically excluded, the act of the Opposite Parties in repudiating the claim on the ground that the treatment is similar to RFQMR without adducing any expert evidence to that effect or filing the affidavit of any doctor to evidence the same, amounts to deficiency of service.

7. BASED on the material on record, we are of the considered view that the State Commission has rightly dismissed the Appeal and we direct the Revision Petitioners to reimburse the amounts directed by the District Forum within four weeks" from the date of receipt of this order.