(2009) 04 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

NEW INDIA ASSURANCE COMPANY LIMITED — APPELLANT

Vs

Khem Singh And Ors. — RESPONDENT

Date of Decision : 28-04-2009

Acts Referred:

Citation : 2009 2 CPJ 321

Hon'ble Judges : ASHOK BHAN , B.K.TAIMNI J.

Advocate : KISHORE RAWAT , VINEET SINHA , PRAGATI NEEKHRA , SURYANARAYAN SINGH

Judgement

1. PETITIONER -Insurance Company, who was one of the opposite parties before the District Consumer Disputes Redressal Forum, Mandi, Himachal Pradesh (hereinafter referred to as the District Forum'' for short), has filed the present Revision Petition.

2. SHORTLY stated, the facts of the case are: Deceased -Man Singh was working as a Beldar with the H.P. Public Works Department (hereinafter referred to as H.P.P.W.D.'' for short), a Department of State of Himachal Pradesh. Admittedly, he, along with a number of employees, were covered under the Janta Personal Insurance Scheme, 1998 -99 which was taken by the Engineer -in -Chief of the H.P.P.W.D. for the period 25.1.1998 to 24.1.1999. As per Scheme, the premium was to be deducted from the pay of an employee by the Department and was to be deposited with the petitioner -Insurance Company. Man Singh died in an accident on 22.6.1998 while travelling from Chakudhar to Thunag. Khem Singh son of Man Singh filed the complaint on 8.9.2003 after attaining the majority on 13.12.2002 in the District Forum. Other legal heirs of Man Singh were impleaded before the District Forum as proforma respondent Nos. 4 to 6 (they are respondent Nos. 2 to 4 herein). Although, the Executive Engineer of H.P.P.W.D., Division Bench, Sunder Nagar, where Man Singh was working, knew about the death of the Man Singh on 22.6.1998, but the intimation regarding the death of Man Singh was sent to the petitioner -Insurance Company on 15.5.2001. Because of the delay in lodging the complaint, petitioner -Insurance Company

repudiated the claim on 22.5.2001.

3. THE District Forum came to the conclusion that the complainants were entitled to the insured amount though there was a delay on the part of the Department in intimating the death of the deceased -Man Singh. As the Department was held to be an agent of the petitioner, the petitioner was held liable and direction was issued to pay to the complainants and respondent Nos. 2 to 4 herein, i.e. the other legal heirs, the insured amount of Rs. 2,00,000 along with interest @ 6% p.a. from the date of filing of the complaint till its realization. The amount so awarded was to be apportioned amongst the complainants and respondent Nos. 2 to 4 herein equally. Rs. 11,000 were awarded as compensation and costs of litigation out of which Rs. 5,000 were to be paid to the complainant -respondent herein whereas Rs. 2,000 each to respondent Nos. 2 to 4 herein. Aggrieved against the aforesaid Order of the District Forum, the petitioner filed an Appeal before the Himachal Pradesh State Consumer Disputes Redressal Commission, Shimla, Himachal Pradesh (hereinafter referred to as the State Commission'' for short). The State Commission dismissed the Appeal.

4. COUNSEL appearing for the petitioner -Insurance Company relying upon Condition No. 1 of the Insurance Policy, which reads as under: "1. Upon the happening of any event which may give rise to a claim under this policy the insured shall forthwith give notice thereof to the company. Unless reasonable cause is shown, the insured should within one calendar month after the event which may give rise to a claim under the policy, give written notice to the Company with full particular of the claim."

strenuously contends that the claim can be lodged within one week of the death of the insured or within one month on showing reasonable cause. That the petitioner -Insurance Company could not be held liable to make the payment of the insured amount as there was a delay on the part of the Department in intimating about the death of Man Singh to the petitioner -Insurance Company.

5. SUPREME Court of India in Delhi Electric Supply Undertaking v. Basanti Devi and Anr., III (1999) CPJ 15 (SC)=VIII (1999) SLT 279=(1999) 8 SCC 229, has held that the employer is an agent of the Insurance Company. The principal, i.e. the Insurance Company would be liable for the acts of the agents. For the default committed by the agent, the legal heirs of the deceased cannot be made to suffer. In the present case, the finding has been recorded that H.P.P.W.D. was an agent of the petitioner -Insurance Company and, therefore, the Insurance Company would be liable to make the payment in terms of the judgment of the Supreme Court of India in Basanti Devi''s case (supra).

6. IN view of the above, we do not find any substance in this Revision Petition and dismiss the same. The Orders passed by the District Forum as affirmed by the State Commission are, accordingly, upheld. There shall be no costs in the Revision Petition.

7. HOWEVER , petitioner, if so advised, may recover the amount from H.P. Public

Works Department after following the procedure in accordance with law. R.P. dismissed.

