(2013) 08 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

ORIENTAL BANK OF COMMERCE — APPELLANT

Vs

Chandan Bala Jain — RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Citation : 2013 0 NCDRC 589

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Advocate : VIPIN JAIN

Judgement

1. THIS Revision Petition is directed against the Order in First Appeal No. 854 of 2009 passed on 10.01.2013 by the State Consumer Disputes Redressal Commission, (in short, ''State Commission ''), Circuit Bench 2, Jaipur, Rajasthan whereby the State Commission has allowed the First Appeal, setting aside the order of the District Consumer Disputes Redressal Forum (in short, ''District Forum ''), Karauli, Rajasthan in Complaint No. 49/2008.

2. FACTS of the Case in brief: The Complainant ''s husband, Late Sri Sugan Chand took a housing loan of Rs.3 lacs from the OP Bank in 2006 and OP charged Rs.265/- as a processing fee and insurance premium of Rs.1929/-. He had paid 16 instalments of Rs.3,000/- per month totalling Rs.48,000/-. Sugan Chand died in a road accident on 16.05.2007. After the death the OP recovered Rs.2,84,000/- towards the balance loan and interest. The main issue of the Complainant was that the OP bank had recovered the outstanding loan from her husband instead of which the OP should have recovered the loan amount from insurance company. Hence, for deficiency in service filed a complaint before the District forum. The OP Bank admitted the sanction of loan but has denied charging 0.8% process fee and so insurance amount cannot be paid. The District forum dismissed the complaint.

3. AGAINST the order the District Forum the Complainant preferred an appeal before the State Commission. The State Commission through evidence on record and the terms/conditions of loan agreement made the observation as: "In the light of the above terms, the OP was to provide free Personal Accident Insurance

up to Rs.5 lacs and Process Fee was to be recovered from the borrower by debiting his account. There was no term in the Loan Agreement that the Borrower had to pay insurance premium, thus by not insuring the borrower, the OP was deficient in service due to which the Complainant had to pay the outstanding dues with interest to the OP after the death of Mr. Sugan Chand on 16.05.2007, which she is entitled to recover should from the OP. "

4. THE State Commission allowed the appeal and directed the OP to refund of Rs.2,52,000/- collected as principal amount and interest after 16/5/2007 within one month otherwise they will be liable to pay 9% p.a. interest. The OP can retain Rs.265/- towards Process Fee. The OP shall also pay to the Complainant an amount of Rs.10, 000/- towards mental agony and Rs.2, 000/- towards litigation costs. 16.05.2007. Aggrieved by the order of the State Commission this Revision Petition was filed in this commission.

5. WE have heard the counsel for petition who argued vehemently. There is a delay of 81 days in filing this Revision Petition. The application filed by the petitioner for the condonation of delay did not specify or explain day to day reasons of delay. Hence, the delay cannot be condoned. Regarding the merits of this petition it is clear from the OP ''s own circular which is reproduced as: "Bank shall provide free personal accident insurance up to Rs.5.00 lacs or the loan amount whichever is lower to the applicants and also insurance of house/flat up to the loan amount free of cost. In such cases, process fee @ 0.8% is to be recovered from the borrower. "

6. ACCORDINGLY , the OP should have provided free personal accident insurance up to Rs.5 lacs and they should have recovered the process fee from the borrower by debiting his account. Therefore, the OP failed to do so. It is the deficiency of service for which OP is liable. Therefore, this Revision Petition is barred by time and even devoid of merits. It is dismissed. No order as to costs.