(1995) 01 NCDRC CK 0070

In the National Consumer Disputes Redressal Commission

Oriental Insurance Co. Ltd. — APPELLANT

Vs

CHANDULAL KANJIBHAI PATEL — RESPONDENT

Date of Decision : 17-01-1995

Acts Referred:

Citation : 1995 2 CPR 52 : 1995 3 CPJ 538

Hon'ble Judges : R.C.Mankad , R.K.Shah J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal by the Insurance Company is directed against the judgment and order dated October 22, 1993 passed by the District Consumer Disputes Redressal Forum, Mehsana (District Forum for short) allowing the respondent''s complaint and directing the appellant to pay to the respondent Rs. 25,501.83.

2. THE respondent had taken mediclaim insurance policy from the appellant which was valid for the period from October 18, 1991 to March 17, 1992. This policy was renewed for further period from March 18, 1992 to March 17, 1993. This policy was further renewed for a period of one year from March 18, 1993 to March 17, 1994. THE respondent developed urinary problem in 1992 and he was admitted to Muljibhai Patel Urological Hospital at Nadiad for medical treatment on May 17, 1992. He was advised to undergo operation for removal of stone. THE respondent informed the appellant about his admission to the hospital and that he had to undergo operation. THE respondent incurred total expenditure of Rs. 28,531/- for the medical treatment. He made claim for payment of the said amount before the appellant. THE appellant, however, refused to make payment of the amount claimed by the respondent relying on Condition No. 3.8 of the insurance policy. According to the appellant, the respondent had produced bill of Rs. 799.32 which was false and fabricated. Under the aforesaid Condition No. 3.8 the appellant was not liable to make payment under the policy if claim made by the appellant was in any manner fraudulent or supported by any fraudulent means or device. THE appellant refunded the prorata premium and cancelled the respondent''s policy for the remaining period. In the background of the above

facts, the respondent approached the District Forum by way of Complaint No. 317 of 1993 for recovery of Rs. 28,531/- together with interest and cost. The appellant resisted the respondent''s complaint and reiterated the same contentions which were raised while repudiating the respondent''s claim. It was contended that respondent had produced false bill of Rs. 799.32 and, therefore, he was not entitled to reimbursement of the medical expenses incurred by him. It was also stated that the appellant had cancelled the policy as provided in Condition No. 3.11. The appellant, therefore, prayed for dismissal of the respondent''s complaint.

The District Forum by its judgment and order dated October 22, 1993 held to the effect that the bill of Rs. 799.32, which was one of the bills produced by the respondent in support of his claim for his total expenditure of Rs. 28,531/- was doubtful. However, so far as remaining bills were concerned, there was no objection raised by the appellant. Therefore, the appellant was guilty of deficiency of service so far as total amount of Rs. 25,501.83 was concerned. This amount of Rs. 25,501.83 was arrived at after deducting disputed bill of Rs. 799.32. In this view of the matter, the District Forum partly allowed the respondent''s complaint and directed the appellant to pay to the respondent Rs. 25,501/-. The District Forum did not award cost to the respondent. Being aggrieved by the judgment and order passed by the District Forum, the appellant has preferred this appeal.

3. THE main contention raised on behalf of the appellant is that since bill for Rs. 799.32 was false and fabricated, the respondent was not entitled to claim or recover any amount by way of medical expenses incurred by him for taking medical treatment. It is not the case of the appellant that the respondent had not suffered from urinary trouble and he had not taken treatment at the aforesaid hospital at Nadiad. THE appellant also did not dispute the genuineness of other bills totalling to Rs. 25,501.83. It is only because of the bill for Rs. 799.32 that the appellant seeks to deny the respondent''s claim and prays for setting aside of the award given by the District Forum. Now, in support of the allegation that the aforesaid bill for Rs. 799.32 is false, the appellant relies on letter dated 30.9.93 purported to have been addressed by partner of Ganesh Medical Stores to Manager of Mehsana branch of the appellant. It may be mentioned here that bill for Rs. 799.32 was issued by Ganesh Medical Stores for the medicines purchased by the respondent. In the aforesaid letter it is stated to the effect that the bill is not correct and that it may not be taken into account. It is on the basis of this letter that the appellant''s claim was repudiated. Now the person who has written aforesaid letter dated 30.9.93 has not been examined as a witness. THE letter is not duly proved. On the other hand, Pankaj Kumar Kashiram Patel, who is partner of Ganesh Medical Stores has filed affidavit to the effect that the aforesaid bill for Rs. 799.32 was issued by Ganesh Medical Stores. He has stated that the respondent''s son had purchased four vials of "Claforan" 1 mg. from Ganesh Medical Stores, that he does not remember the date on which they were purchased and that Dilipbhai had come to him to take bill in respect of

this purchase about 2 months after the purchase. This evidence of Pankaj Kumar has gone unchallenged. In other words, there is no cross-examination of Pankaj Kumar and it is not suggested to him that the bill issued by Ganesh Medical Stores was not genuine. We further find that injection "Claforan" 1 gm. was prescribed by the hospital. THErefore, the fact that four vials of "Claforan" 1 gm. injection were purchased for the respondent is supported by the prescription given by the hospital. THEre is, therefore, absolutely no reason to disbelieve the statement that the respondent had spent Rs. 799.32 for purchasing "Claforan" injection from Ganesh Medical Stores. In our opinion, the appellant had not made proper investigation to find out whether the injections were prescribed by the hospital and whether they were purchased by the respondent as part of the medical treatment. It is important to remember that the respondent had taken medical insurance for the period from March 18, 1991 to March 17, 1992 and renewed this policy for further period of two years from March 18, 1992 to March 17, 1993 and March 18, 1993 to March 17, 1994. Each year, the respondent had paid premium of Rs. 2,340/-. It was in May, 1992 that the respondent was admitted to the Hospital for treatment as aforesaid. It is important to note that the respondent did not make any claim between March 18, 1991 and March 17, 1992 when he took mediclaim policy for the first time If the appellant had taken this policy to advance false claim, he would have advanced such claim in the first year also. However, it was only when he really fell ill that he was admitted to the hospital where he was operated. It was in respect of this illness that he had made total claim of Rs. 28,531/-. Out of this total claim, even the appellant has accepted that the respondent had spent Rs. 25,501.83. It is only for claim of Rs. 799.32 for four vials of injection for which Ganesh Medical Stores has issued bill that the appellant found that it was not a genuine claim and bill issued was false. It is difficult to believe that a person who had admittedly spent Rs. 25,501.83 would take the risk of his claim being rejected by making false claim for only Rs. 799.32. In our opinion, claim in respect of Rs. 799.32 is not at all doubtful. In other words, this claim is genuine and there was absolutely no justification for the appellant to reject the entire claim on account of said claim of bill of Rs. 799.32. It would appear as if the appellant wanted to find some excuse to reject the respondent''s genuine claim. We deprecate this attitude of the appellant. It would become meaningless to take medical insurance policy if genuine claims are to be rejected on flimsy grounds. In our opinion, the District Forum was not right in rejecting the respondent''s claim to the extent of Rs. 799.32 on the ground that the bill in respect of said amount was suspicious. We would have awarded this amount to the respondent had he come up in appeal before us. However, we cannot award this amount to the respondent because no appeal has been preferred by him. Considering all the facts and circumstances of the case, in our opinion, this appeal deserves to be dismissed with cost. We accordingly dismiss this appeal with cost. Cost quantified at Rs. 2,000/-. The appellant is directed to pay the cost to the respondent within one month from the date of this order. Appeal dismissed.

