(2012) 04 NCDRC CK 0071

In the National Consumer Disputes Redressal Commission

Oriental Insurance Company Limited Through its Chief Manager	APPELLANT
Vs	
Additional Secretary, Chhattisgarh State Power Holding Co	RESPONDENT

Date of Decision : 04-04-2012

Acts Referred:

Citation : 2012 0 NCDRC 105 : 2012 2 CPJ 303 : 2012 2 CPR 374

Hon'ble Judges : V.B.Gupta , Vinay Kumar J.

Advocate : Shalabh Singhal

Judgement

1. THIS revision petition has been filed against concurrent orders of the District Consumer Forum, Raipur and the Chhatisgarh State Consumer Disputes Redressal Commission. The Complainant, Chhatisgarh State Power Holding Co.,had obtained a Group Personal Safety Insurance Policy for its employees as a measure of protecting and safeguarding their welfare. The matter in the present proceedings arose from the death of an employee, Kaushal Prasad Sahu in a road accident on 7.6.2005.

2. THE case of the Complainant before the District Forum was that the claim form under the policy was submitted by the concerned Executive Engineer of the Board along with copies of the FIR lodged with the policy, post-mortem report, death certificate and the service certificate of the deceased employee. OP/ Oriental Insurance Company repudiated the claim on 1.3.2007. In the written response of OP/Oriental Insurance Company, it was explained that under the terms of the policy, notice of death of the employee was required to be given within one calendar month of the death. As the claim was repudiated on account of delay in reporting the death of the employee, it was argued before the District Forum that the claim was required to made within a period 14 days and was rejected for non-compliance of this condition. THE District Forum allowed the claim with compensation of Rs.5,000/-. In the appeal before the State Commission, it was argued on behalf of the Oriental Insurance Company that both parties are bound by the terms of the agreement under which the claim was

to be filed within 14 days. The State Commission observed that? ?As the insurer repudiated the claim on the ground of delay, the burden was on the OP/ insurer to prove that the claim was to be filed within a specified period to which the employer had agreed under the master policy. However, as noted herein above, there is no material on record to show that the claim was to be laid within a specified period.? Therefore, it observed that 14 days is too small a period. In this background and considering the evidence on record, the State Commission concluded that it was a case of accidental death of an employee. Therefore, the OP was held liable to pay the insured sum.

We have perused the records and heard the counsel for the revision petitioner/ Oriental Insurance Co. It is not the case of the petitioner that any documentary evidence in support of the ground for repudiation was placed before the fora below and that the same was overlooked. As a matter of fact, the revision petitioner has, for no explicable reason, totally disregarded the categorical observation in the impugned order?that the relevant policy was not produced and therefore the State Commission was not aware of the actual terms agreed between the parties?and has raise the following as a ground for challenging the order of the State Commission:- ?Because the Ld. Commission committed a material irregularity when it presumed that a master policy was executed between the parties and the parties were governed by the terms of the said master policy and terms and conditions placed before it were not binding between the parties. It further presumed that under the said policy a longer period was given to lodge a claim. The Ld. State Commission could not have raised such a presumption particularly when no material to suggest existence of such a master policy was on record and none of the parties have pleaded existence of such a master policy. The presumption raised by the Ld. State Commission are wholly erroneous and unsustainable in the eyes of law.? This plea is nothing more than an attempt to misinterpret the impugned order. We therefore, deem it fit to reject it at the threshold itself.

3. IT is also urged on behalf of the revision petitioner that State Commission has failed to appreciate that the Complainant Chhattisgarh State Power Holding Company Ltd. had no locus standi to file this complaint. IT is argued that only the legal heirs of the deceased were entitled to lodge the claim and file the consumer complaint. This plea was raised before the State Commission and has been appropriately examined in the impugned order with reference to the decision of this Commission in another matter arising in RP No. 14 of 2010 in Chhattisgarh State Power Holding Company Ltd. Vs. Oriental Insurance Company Ltd.The matter pertained to claims arising from the death of two employees of the Complainant Company under a Group Personal Insurance Policy obtained from the OP/Oriental Insurance Company. The National Commission chose not to interfere with the direction of the State Commission to implead the legal heirs of the deceased employees. However, it was clearly observed that the National Commission does not agree with the view expressed by the State Commission. IT was held that going by the entirety of the facts and circumstances of these

cases and that the contract of insurance was entered into between the petitioner and the respondent insurance company, it was not necessary to implead the nominees/beneficiaries of the deceased employees. We reiterate the view already taken by this Commission, and hold that the impugned order cannot be assailed on this ground. For the reasons detailed above, the revision petition is considered to be devoid of any merit and is dismissed as such. The order of the Chhattisgarh State Consumer Disputes Redressal Commission in Appeal No.714 of 2010 is confirmed. No order as to costs.