
(2016) 05 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

Case No : 1043 of 2016

ORIENTAL INSURANCE COMPANY LTD.

APPELLANT

Vs

KISHORI LAL & 3 ORS.

RESPONDENT

Date of Decision : 19-05-2016

Acts Referred:

Citation : 2016 3 CPR 286

Hon'ble Judges : D.K. Jain, M. Shreesha

Advocate : Abhishek Kumar Gola

Judgement

1. This bunch of nine Revision Petitions, by one of the premier public sector Insurance Companies in the Country, namely, Oriental Insurance Company Limited (for short "the Insurance Company"), is directed against the orders, all dated 30.11.2015, passed by the Uttarakhand State Consumer Disputes Redressal Commission at Dehradun (for short "the State Commission") in First Appeals No.1/2011, 2/2011, 3/2011, 4/2011, 5/2011, 6/2011, 7/2011, 8/2011 and 350/2013 respectively. By the impugned orders, the State Commission has affirmed the orders passed by the District Consumer Disputes Redressal Forum at Chamoli (for short "the District Forum") in Complaint Cases No. 3/2005, 14/2005, 27/2005, 19/2005, 4/2005, 64/2005, 9/2005, 5/2005 and 1/2008 respectively. By the said orders, while directing the Education Department of the State of Uttarakhand to pay to each of the Complainants a sum of 5000/- towards mental agony and a further sum of 5000/- as litigation expenses, the District Forum had directed the Insurance Company to pay to each of the Complainants, except Complainants Dalebu Lal and Kishori Lal, the assured amount of 80,000/- together with interest @ 8% per annum from the date of filing of the respective Complaints till realization. As regards the Complainants Dalebu Lal and Kishori Lal, the District Forum had directed the Insurance Company to pay to each of them the assured amount of 20,000/- together with interest @ 8% per annum from the date of respective Complaint till realization.

2. Since the bone of contention in all the Revision Petitions is identical, these are

being disposed of by this common order.

3. In short, the controversy involved in the Complaints, giving rise to the present Revision Petitions, was as to whether or not the amount of premium, deducted by the Department of Education in the State of Uttarakhand, the Employer, from the salaries of its employees, who were all insured under a group insurance policy, entitled "Group Nagrik Suraksha Policy" and deposited in the account of the Insurance Company, could be treated as the premium paid in respect of all the Insured under the said policy?.

4. It is an admitted case that the Employer of the Insured had deducted a total premium, amounting to 3,15,070/-, from their salaries and was deposited in the account of Insurance Company, opened on 09.09.2003, in terms of an Agreement executed between the Insurance Company and the Director of Education for Primary and Secondary Wing, Government of Uttaranchal (now Uttarakhand). However, a draft in the said sum was got prepared by the Employer in favour of the Insurance Company on 01.10.2003 but on account of some mistake on the part of the Education Department, the said draft was not got encashed and was replaced by another bank draft on 02.02.2004, which was received and encashed by the Insurance Company on the same day. Unfortunately, the Insured(s), except Smt. Rajeshwari Rawat, who were travelling together, met with an accident on 17.11.2003. Some of them expired and others received grievous injuries. The beneficiaries under the policy, the Complainants, lodged their respective claims under the said policy with the Insurance Company. However, all the claim were repudiated on the short ground that on the date of the accident, the deceased Insured were not covered under the policy, as the amount of premium had been received only on 02.02.2004, when the demand draft was received.

5. Being aggrieved, the Complainants filed their respective Complaints before the District Forum. As noted above, the District Forum accepted the Complaints and awarded the afore-noted compensation together with the assured sums under the policy.

6. Not being satisfied with the said orders, the Insurance Company unsuccessfully carried the matter further in Appeals before the State Commission. The State Commission dismissed the Appeals, observing thus: "15. The argument of the learned counsel for the insurance company cannot be accepted for the simple reason that there was a specific provision in the Government Order that as and when the amount of premium is deposited in the account of the insurance company, the employees whose premium have been deducted from their salary and deposited in the account, will be entitled to the benefit of insurance policy known as Nagrik Suraksha Policy. This fact was also admitted by the insurance company in their letter dated 25.07.2003 referred in paragraph No. 10 of the order and wherein it was specifically mentioned that as and when the premium is deposited in the account of the insurance company with the bank, the same shall be treated as advance premium. There is no

dispute with regard to the fact that the account was opened in the name of the insurance company prior to the date of the accident. It is also admitted that the amount of premium was deducted from the salary of the employees and the same was deposited in the account of the insurance company before the date of the accident. Mere receipt of the draft by the insurance company after the date of the accident in the given facts and circumstances of the case, will not absolve the insurance company from its liability for the reason that the amount of premium was to be remitted by way of draft to the insurance company by the bank, as has been mentioned in the Government Order. Therefore, we are of the considered view that the District Forum has rightly held that the insurance company is liable to pay the insured amount. ..." (emphasis supplied)

7. Hence, the present Revision Petitions.

8. Having heard learned Counsel for the Insurance Company for some time and perused the documents on record, in particular the afore-noted Agreement between the Government of Uttarakhand and the Insurance Company, we are of the opinion that besides the fact that the amount of assured sum in each of the cases is paltry sum of 80,000/- or 20,000/-, the stand of the Insurance Company that till the demand draft for the premium amount in the sum of 3,15,070/- had been received, the insurance policy did not come into force is absolutely erroneous. In our view, as per the agreed terms, the moment the premium, deducted from the salary of the employees, was deposited in the bank account of the Insurance Company, for all intents and purposes, the premium under the policy in respect of the Insured came in the coffers of the Insurance Company, notwithstanding the fact that the demand draft for the total premium amount was received later. Admittedly, no one else, except the Insurance Company, could operate the said account.

9. In our opinion, the afore-extracted conclusion, arrived at by both the Forums below, was based on proper interpretation of the Agreement between the Government of Uttarakhand and a public sector undertaking, viz. the Insurance Company. We do not find any jurisdictional error in the impugned orders, warranting our interference in the Revisional Jurisdiction. It is also pertinent to note that all the Revision Petitions are barred by limitation, for which the short explanation is the administrative delay in the processing of files.

10. Before parting, we are constrained to observe that perhaps, taking a leaf out of the observations of the Hon'ble Supreme Court in *Gurgaon Gramin Bank Vs. Khazani And Anr.*, IV (2012) CPJ 5 (SC), wherein the Apex Court had come heavily against the public authorities for litigating on trivial matters, instead of taking hyper technical objection, the Insurance Company should have gracefully settled the claim of the Complainants, ranging between 80,000/- and 20,000/-, for the loss of valuable human lives and/or grievous injuries to the Insured.

11. Consequently, all the Revision Petitions are dismissed in limine.