(2008) 08 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

PARKASH KAUR — APPELLANT

Vs

ICICI LOMBARD GENERAL INSURANCE COMPANY — RESPONDENT

Date of Decision : 28-08-2008

Acts Referred:

Citation : 2008 4 CPJ 309

Hon'ble Judges : S.N.Aggarwal , Jasbir Kapoor , L.T.Col , Darshan Singh J.

Advocate : R.C.Chaudhary , Sandeep Suri , Vikram Bajaj

Judgement

1. THIS appeal was filed with delay in filing the appeal. The number of days has not been mentioned in the application. However, it was stated that the impugned order was not passed in the presence of the appellants and the copy of the impugned order was not delivered to appellant No. l at her village address though it was stated to have been issued on 5. 11. 2007. According to the admission of the appellants they came to know about the passing of the impugned order on 1. 2. 2008. This appeal was filed on 4. 2. 2008. Therefore, if this version of the appellants is believed there was no delay in filing the appeal.

2. AN application for condonation of delay has been filed in which reasons have been given for not filing the appeal within time. An affidavit in support of the application has also been filed. Accepted subject to just all exceptions. Therefore, the delay, if any, in filing the appeal is condoned. Main Case: Raj Singh husband of Parkash Kaur appellant and father of Baljit Singh and Gagandeep Singh appellants was aged 35/36 years and was an agriculturist. He was resident of Village Kalu Wala. He was insured with respondent No. l under the Sehkari Bank Bima Yojna being an account holder of Ferozepur Central Cooperative Bank Ltd. , respondent No. 2. Said Raj Singh had gone to his fields for irrigating the paddy crops. He was bitten by a snake causing his instant death. The body of Raj Singh had turned bluish. Since the family members were under shock, therefore, it did not occur to them to get the dead body of Raj Singh subjected to post mortem examination. However, the appellants had submitted the application to the SDM, Ferozepur on 27. 6. 2005 who referred the matter to the police of PS Mallan Wala

to inquire into the matter. On the basis of the enquiry report the SDM, Ferozepur also issued the certificate that Raj Singh had died due to snake bite. The claim was lodged with respondent No. l for the insurance amount of Rs. 1 lac under the Sehkari Bank Bima Yojna but respondent No. 1 repudiated the claim. Hence the appellants filed the complaint in the learned District Consumer Disputes Redressal Forum, Ferozepur (in short "district Forum") for recovery of the insurance amount with compensation, interest and costs.

Respondent No. 1 filed written statement. It was admitted that Raj Singh was an agriculturist. He was 35/36 years of age. He was resident of Village Kalu Wala. He was insured with respondent No. 1 under the Sehkari Bank Bima Yojna being account holder with respondent No. 2. It was denied if Raj Singh had died due to snake bite. Neither the matter was reported to the police nor the dead body of Raj Singh was got subjected to the post mortem examination nor immediate information was given to respondent No. 1. Hence repudiation was legal and valid and dismissal of the complaint was prayed.

3. RESPONDENT No. 2 also filed written statement. It was also admitted by respondent No. 2 that Raj Singh was an account holder with them and that he was insured with respondent No. 1 under the said scheme. However, the dismissal of the complaint qua respondent No. 2 was prayed. The appellants tendered affidavit Ex. Cl and also proved documents Ex. C2 to Ex. C5. On the other hand, respondent No. l proved documents Ex. R1 to Ex. R3. While respondent No. 2 produced documents Ex. R4 and Ex. R5.

4. ON the basis of these pleadings and the affidavits/documents, the learned District Forum dismissed the complaint vide impugned judgment dated 19. 10. 2007. Hence the appeal. The submission of the learned Counsel for the appellants was that the matter was reported to the SDM concerned by the appellants on 26. 6. 2005 (Ex. C2) who had marked the inquiry to the police. The police report has been proved as Ex. C3 according to which also Raj Singh had died because of snake bite on 24. 6. 2005. On the basis of the police report, the SDM, Ferozepur has issued certificate Ex. C4 that Raj Singh has died on 24. 6. 2005 because of snake bite when he had gone to irrigate his fields. Hence it was submitted that the learned District Forum was not justified in dismissing the complaint. Reliance was placed on the judgment of the Hon''ble National Commission reported as United India Insurance Company Ltd. v. Pallamreddy Aruna, IV (2007) CPJ 389 (NC)=2008 (1) CPC 198.

5. ON the other hand, the submission of the learned Counsel for respondent No. l was that the dead body of Raj Singh was not got subjected to post mortem examination and, therefore, the cause of death has not been established. It was also submitted that there was no medical evidence to prove if Raj Singh had died because of snake bite. It was also submitted that no information was given to respondent No. l nor they were associated in the police inquiry. Hence it was prayed that the appeal be dismissed.

6. RECORD has been perused. Submissions have been considered. It is not denied that Raj Singh was a villager. He was an agriculturist. He was 35/36 years of age at the time of his death.

The appellants have pleaded that Raj Singh had died because of snake bite on 24. 6. 2005 when he had gone to irrigate his fields. Appellant No. 1 is a rural lady and she did not know the intricacies of the law. Moreover, the family members had come under a shock on the death of the head of the family, namely, Raj Singh at the young age who was their bread winner. Therefore, the case of the appellants cannot be rejected only on the ground that the dead body of Raj Singh was not got subjected to the post mortem examination when other evidence is available on the record which proves that Raj Singh had died due to snake bite. Hon''ble National Commission in Pallamreddy Aruna''s case (supra) relied upon by the learned Counsel for the appellants had also accepted the insurance claim even when the dead body of snake bite victim was not got subjected to post mortem examination. It is, therefore, held that the learned District Forum was not justified in rejecting the claim of the appellants for want of post mortem report. !

7. THE appellants reported the matter to the SDM, Ferozepur merely after two days vide letter dated 26. 6. 2005 (Ex. C2). The SDM had marked the inquiry to the police of the concerned police station. The police enquired into the matter and submitted the report dated 28. 6. 2005 (Ex. C3) that Raj Singh had died due to snake bite. On its basis the SDM had issued the certificate Ex. C4 that Raj Singh had died due to snake bite. This evidence is quite adequate for reaching the conclusion that Raj Singh had died due to snake bite. Learned District Forum was not justified in rejecting the report of the SDM, Ferozepur by holding that certain words have been incorporated in the certificate later on. The certificate Ex. C4 has been perused. It appears to have been written by the same person at the same time when the certificate was issued by the SDM, Ferozepur. Therefore, there is nothing to disbelieve the certificate (Ex. C4) issued by the SDM, Ferozepur about the cause of death of Raj Singh or the police report dated 28. 6. 2005 Ex. C3.

8. THE death of Raj Singh at the age of 35/36 years cannot normally be the natural death. Although the human beings are at the mercy of God and they leave the world at his pleasure but normally the people at this age die unnatural death and not natural. Therefore, the death of Raj Singh at premature age also lends credence to the version of the respondent that he has died an unnatural death i. e. by snake bite. Moreover, the respondents have not led any evidence to prove if Raj Singh had died due to some other reasons or for any other cause. It is, therefore, held that Raj Singh had died because of snake bite. The insurance policy was not denied by the respondents. This appeal is, therefore, accepted with costs of Rs. 5,000 throughout and the impugned order dated 19. 10. 2007 is set aside. Respondent No. l is directed to make the payment of the insurance claim as per the insurance policy issued under the Sehkari Bank Bima

Yojna with interest at the rate of 9% per annum with effect from the date of repudiation i. e. 21. 2. 2006 till the date of payment.

9. THE arguments were heard in this case on 21. 8. 2008 and the orders were reserved. Now, the order be communicated to the parties. Appeal allowed.

