**(1997) 05 NCDRC CK 0029**

**In the National Consumer Disputes Redressal Commission**

RAJANI PATWARI APPELLANT

Vs

L.I.C.OF INDIA RESPONDENT

**Date of Decision :** 29-05-1997

**Acts Referred:**

**Citation :** 1997 0 NCDRC 26 : 1997 2 CPC 388 : 1997 2 CPR 254 : 1997 3 CPJ 48

**Hon'ble Judges :** V.BALAKRISHNA ERADI , R.THAMARAJAKSHI , S.P.BAGLA , C.L.CHAUDHRY J.

**Advocate :** S.K.TANEJA

# Judgement

1. SMT . Rajni Patwari is the appellant and the Branch Manager, Life Insurance Corporation of Indian Ltd., Medak District is respondent No. 1 and M/s. Asian Paints (India) Ltd., Patancheru, Medak District are respondent No. 2. The facts of the case are that Smt. Rajni Patwari, who is the wife of Shri Niranjan Patwari preferred a claim with the Life Insurance Corporation of India Ltd., the respondent No. 1 for payment of the due amount on the Policy No. 640208028 for a sum of Rs. 10,000/- commencing on 3.9.1987, consequent upon the death of Shri Niranjan Patwari on 3.12.1988. The respondent No. 1 repudiated her claim on ground that the policy in question had lapsed because of default in the payment of premiums from November, 1987 to May, 1988. As Shri Niranjan Patwari was an employee of respondent No, 2 and had taken the policy under the Salary Savings Scheme, enquiries were made from them and they intimated that the deceased had authorised them to make payment of premiums from June, 1988 only which were duly remitted to the LIC " the respondent No. 1 upto December, 1988 and were stopped after his death. The District Forum, Hyderabad after hearing the complainant came to the conclusion that the respondent No. 2 could not produce any authorisation from the deceased employee for the payment of premiums from June, 1988 only, inspite of the fact that a docket was issued to them to produce the same. On the other hand, the LIC of India had produced their letter in which authorisation duly signed by the deceased Niranjan Patwari had been sent to respondent No. 2 asking them to

make the payments by way of deductions from the salary of Shri Niranjan Patwari from November, 1987. The District Forum held both, the LIC of India Ltd. and M/s. Asian Paints (India) Ltd. jointly and severally responsible and directed them to pay to Smt. Rajni Patwari, the nominee of the deceased a sum of Rs. 10,000/- with bonus and accident benefit, if entitled, alongwith interest at the rate of 12% per annum from 18.3.1989 and a cost of Rs. 1,000/- within one month from the date of their order i.e. 17.2.1995. In appeal by both the respondents, the State Commission, Hyderabad came to the conclusion that although a copy of the letter has been produced by the respondent No. 1 which they asserted had been sent to respondent No. 2 for deduction of premiums from the salary of the deceased Niranjan Patwari from November, 1987, the same cannot be accepted as the respondent No. 2 denies having received any such letter. They believed the assertion of the respondent No. 2 on the ground that they had sent a letter in March, 1989 itself stating that the deceased had authorised them to deduct the monthly premiums only from June, 1988. The State Commission, therefore, set aside the order of the District Forum stating that there was no deficiency of service either on the part of the first respondent or on the part of the second respondent. The first respondent was absolved on the ground that policy had lapsed for non-payment of premiums from November, 1987 to May, 1988 and had not been revived during the life time of the deceased. The respondent No. 2 were absolved on the ground that they had paid the premiums when they were asked to do so by the deceased employee.

2. WE have heard the Counsel for the petitioner as well as both the respondents and perused the file. We are unable to agree with the conclusion arrived at by the State Commission, Hyderabad in their order dated 20.11.1995 in F.A. No. 291 of 1995 and F.A. No. 1143 of 1995 in regard to this matter for the following reasons. Firstly, an affidavit has been filed before us by the Assistant Secretary (Legal and HPF), LIC of India, South Central Zonal Office, Hyderabad that the " authorisation letter duly signed by and obtained from the proposer for recovery of premium falling due from November, 1987 was sent to the respondent No. 2, M/s. Asian Paints (India) Ltd., employer of the life assured, in time." This affidavit has not been denied by the respondent No. 2 nor have they produced any documentary evidence showing that the deceased employee had authorised them to deduct the premiums from June, 1988 only. Secondly, it is significant to note that it was three months after the death of the deceased employee and after the claim had been preferred by his wife that a letter was sent by the respondent No. 2 in March, 1989 stating that the deceased had authorised them to deduct the monthly premiums from June, 1988 only. The reliance on this letter to believe the assertion of respondent No. 2 by the State Commission, in our view, is misplaced because no written authorisation from the deceased employee has been produced by the respondent No. 2. Even otherwise, it does not stand to reason as to why the deceased employee would authorise the payments seven months after the commencement of the policy unless he himself had paid the premiums. As a matter of fact, the insurance premiums under the Salary Savings

 

Schemes are not to be directly paid by the insured as the very title of Scheme indicates and these are to be deducted u from his salary. In this regard, the Marketing Manager, LIC of India, Divisional Office Secunderabad has given an affidavit explaining the procedure in regard to the deduction and receipt of payment on the policies under the Salary Savings Schemes stating: "That the authorisation letter in Salary Savings Scheme is obtained from the proposer at the time of receiving the proposal for the policy. The Corporation, after underwriting the proposal, duly fill up the said authorisation letter in respect of policy No., monthly premiums to be deducted and sends the same directly to the concerned employer. The relevant manual provision is extracted below: Para Nos. 4.5 of the Salary Savings Schemes Manual "4.5. Authority Letter: This is a letter addressed by the proposer to his employer under his signatures authorising them to deduct the premiums every month from his salary and pay them to LIC. After the proposal is accepted and Policy No. is given, the particulars of the policy and correct Paying Authority Code No. are shown in the appropriate places. The due month when the deductions are to commence is also shown. The original is sent direct to the Employer by N.B. Department by about 25th of suceeding month, retaining the third copy in the policy file. The second copy is sent to the office which is servicing the Paying Authority. The policy file is also transferred to the servicing branch after issue of the policy."

Mere denial by the respondent that the authorisation was not received from the LIC does not stand the scrutiny as themselves have not produced any authorisation from the deceased employee to pay the premiums from June, 1988 only. We also feel that the LIC cannot be absolved of its responsibility in this case only on the technical ground that the policy had lapsed for want of payment of premiums from November, 1987 to May, 1988. If that was so why did the LIC of the India Ltd. accept the premiums from June, 1988 to December, 1988, for a period of six months, and why did they not inform either the insured or his employer that the policy had lapsed and without its revival these premiums are not of any use and, therefore, are returned. We agree with the view taken by the District Forum that "had the LIC informed the deceased Niranjan Patwari any time between June, 1988 and December, 1988 about the status of policy as lapsed, he might have taken steps to revive it." In the absence of any evidence that he authorised the payment only from June, 1988, it is only fair to accept the assertion of the LIC that they had sent the authorisation letter signed by the deceased, Niranjan Patwari to the employer in time but at the same time it is also true that it is a gross negligence and carelessness on the part of the LIC to have accepted the premiums for 7 months continuously without bringing it to the notice of either the employer or the insured that such premiums were being received on a lapsed policy. In our view, therefore, both the Life Insurance Corporation of Indian Ltd. and M/s. Asian Paints (India) Ltd., respondent Nos. 1 and 2 respectively are guilty of the deficiency of service. We, therefore, accept this appeal, set aside the order of the State Commission and restore the order of the District Forum with no orders as to costs in this Revision Petition.

 