

(2003) 11 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

Rajasthan State

APPELLANT

Vs

VIDHYA JHA

RESPONDENT

Date of Decision : 20-11-2003

Acts Referred:

Citation : 2004 2 CPC 56 : 2004 2 CPJ 621

Hon'ble Judges : M.A.A.Khan , Ratan Prakash J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against the order of the learned District Forum, Udaipur dated 15.5.2002 whereby the complaint filed by the respondent Smt. Vidhya Jha has been allowed and the appellant has been directed to pay the insured amount of Rs. 2 lakhs under the Group Insurance (Accident) Scheme along with interest @ 9% p.a. and cost at Rs. 5,000/-.

2. FACTS relevant for disposal of this appeal in brief are that the assured Shri Shiv Shankar Jha was an employee of the Devasthan Department, Udaipur and had an insurance under Group Insurance Policy with the State Insurance and GPF Deptt.; valued at 2 lakhs with a monthly (Sic) premium of Rs. 55/- under the Salary Saving Scheme. It is the case of the respondent Smt. Vidhya Jha, the nominee under the policy and wife of the assured that her husband Shri Shiv Shankar Jha died an accidental death on 9.8.1997 when he had gone to take a bath in Fateh Sagar Lake around 9.30 a.m. When her husband did not return, a search was made and thereafter a report was lodged with Police Station, Amba Mata about his missing. When on 11.8.1997 it was learnt that a dead body is floating in the Fateh Sagar Lake then his son went to the spot and indentified the body and an information to this effect was also supplied to the Police Station. An inquest under Section 174 of the Code of Criminal Procedure was also held by the police and it was found that the assured has died on drowning after he slipped at Fateh Sagar Lake. This fact was also affirmed on post-mortem of the body of the deceased. When a claim was advanced by the nominee under the policy to the respondent Insurance Department, it repudiated the claim vide their

communication dated 28.10.1998 on the ground that the death of the assured was not accidental but that as he was not keeping mental good health, he has committed suicide. The complaint filed before the District Forum was resisted by the appellant Insurance Department mainly taking the plea that it was the case of suicide and not of an accidental death and hence the complaint should be rejected.

The learned District Forum after consideration of the evidence made available by both the parties and other material on the record; did not approve the version of the appellant and decreed the claim as stated earlier.

3. WE heard the learned Counsels for the parties at great length and perused the material made available on record by both the parties. It has been vehemently argued by the learned Counsel for the appellant that since after investigation made, it was found that the assured had committed suicide as he was not keeping mental good health, hence the learned District Forum has committed an error in relying upon the version of the complainant and that the appeal be allowed. As against it, the learned Counsel for the respondent had supported the impugned order.

4. FROM a perusal of the evidence led on behalf of the respondent before the learned District Forum, it is clearly made out that the cause of death of the assured was an accident after he slipped and drowned in Fateh Sagar Lake. This fact is not only stated in the inquest made by the appellants under Section 174 of Cr. Procedure Code but is also corroborated by the findings in the post-mortem report of the deceased assured. Although the appellant had tried to assert that the assured was not keeping good mental health and committed suicide. The learned District Forum has dealt with this aspect in great deal and has held that there was no cause or reason for the assured to have committed suicide more so as he is alleged to have taken a loan of Rs. 75,000/- to construct a house when not only the assureds wife (i.e., respondent) has been a working woman and his son was also employed. The appellant has failed to furnish any cogent and satisfactory evidence that the assured was having any mental disorder before his accidental death. Even the record produced for sanctioning of a few days leave by the assured did not affirm that he was ever treated for any alleged mental disorder. In our opinion, the repudiation of the claim by the appellant was not justified at all and there is no error whatsoever in the conclusions arrived at by the learned District Forum while rendering the impugned order. Consequently, we find no substance, whatsoever, in the appeal filed by the appellant which is dismissed with cost at Rs. 1,000/- to the respondent. If the appellant had deposited the amount of Rs. 2 lakhs with the District Forum in compliance of the order of this Commission dated 14.2.2003, the amount would be paid to the respondent forthwith and rest of the decretal amount shall be payable by the appellant to the respondent within a period of one month from the date of receipt of this order failing which the rate of interest would stand enhanced at 12% p.a. till payment. Appeal dismissed.