(2014) 03 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

RAKESH KUMAR SHARMA — APPELLANT

Vs

ICICI Prudential Life Insurance Co. Ltd. and Anr. — RESPONDENT

Date of Decision : 04-03-2014

Acts Referred:

Citation : 2014 0 NCDRC 388 : 2014 2 CPJ 196

Hon'ble Judges : S.M.Kantikar J.

Final Decision : Petition dismissed

Judgement

1. THIS order will decide the question that, "Whether, Consumer Fora have jurisdiction to adjudicate the case in a summary proceedings, when the questions of fraud and cheating are involved, in regard to the claim of the Complainant, which require thorough scrutiny, including the examination of various documents and supporting oral evidence - Brief relevant facts in this revision are, that Mr. Rakesh Kumar Sharma, the Petitioner/Complainant took a policy under the Plan ''Life Term Super'' (hereinafter referred to as the "Emerging Policy") from the ICICI Prudential Life Insurance Co. Ltd., OP -1, for a minimum 5 year lock -in -period, in order to get maximum returns. As per the conditions of said Policy, the Complainant paid the premium for a continuous period of 3 years, from the year 2007 i.e. total Rs. 1,50,000 and thereafter, decided to wait till the year 2012 (5 years lock -in -period), in order to get maximum returns. Thereafter, Mr. Raj Kumar Sharma, OP -2, who was the Associate Financial Services Manager of OP -1 Company, approached the Complainant, for enlistment in Policy No. 14396634 under the plan ''ICICI Pru Life Stage Wealth'' (hereinafter referred to as the ''Later Policy'') which was especially designed for existing policy holders. Keeping in view the assurances made by OP -2, the Complainant agreed for the Later Policy and signed the policy form and handed over a cheque for a sum of Rs. 30,100 to OP -2, which was made in favour of OP -1.Thereafter, the complainant noticed about the fraudulent act and conduct of inducing him by OPs by partially withdrawing the amount of Rs. 30,100 from the Earlier Policy and thereby transferring it to the Later Policy and thereafter cancelling it, on false and frivolous grounds. Hence, the complainant was forced to file a complaint before

the District Consumer Disputes Redressal Forum, (in short, ''District Forum''), Chandigarh.

2. THE District Forum dismissed the complaint on the ground that the complainant''s allegations were regarding cheating and, therefore, the District Forum had no jurisdiction. The said case was not a fit case for summary adjudication as it involved complicated questions of law and facts, which could be decided only by way of detailed evidence and production of witness, before the Civil Court. The District Forum permitted the complainant to approach the Civil Court of competent jurisdiction for redressal of his grievance. Aggrieved by the order of the District Forum, the complainant filed an appeal before the State Consumer Disputes Redressal Commission, Chandigarh (in short, ''State Commission'').

3. THE State Commission dismissed the appeal.

4. AGAINST the order of State Commission, the Petitioner filed this Revision Petition. We have heard the Counsel for both the parties. The Counsel for Petitioner brought our attention to the application for condonation of delay of 63 days in filing this revision. The explanation in relevant paras 3 and 4, reproduced as follows: 3. The impugned order came to be passed on 19.6.2013. However, the certified copy of the impugned order was received by the Petitioner. There - upon the Petitioner sought instructions from their local Counsel who advised him to file Revision Petition against the impugned order.

4. The documents filed before the District Forum and the State Commission were misplaced in transit and hence the entire file had to be reconstructed from the original documents and therefore, the delay in filing the present Petition has occurred.

We are not convinced with these submissions. On considering the point of merit, we have perused the evidence on record and the concurrent findings of both the Fora below. The complainant has alleged that the proposal form was never filled - in by him and it was filled subsequently, either by OP -2 or by someone else, on OP''s directions. It is also averred that he had never issued any cheque of Punjab National Bank, as alleged by the OPs. Besides this, there are allegations of cheating against the OPs. Considering all these circumstances, we are of the considered opinion that this is not a fit case for summary adjudication before this Forum.

5. THE Counsel for OP argued that the Petitioner is a practising Advocate and is aware of the factual and legal position in this case. Counsel for OP relied upon principle of law, laid down by this Commission, in Acrylics Limited v. FE Hardcastle & Co. Pvt. Ltd. Ors.,, IV (2007) CPJ 387 NC and in the case of M/s. Singhal Swaroop Ispat Ltd. We have also put reliance upon the decisions of Hon''ble Apex Court, in Civil Appeal titled Oriental Insurance Co. Ltd. v. Munimahesh Patel, : IV (2006) CPJ 1 (SC) : VI (2006) SLT 436 : 2006 (2) CPC 668 (SC), wherein it was held that the proceedings before the National

Commission were essentially summary in nature. It was further held that in view of the complex factual position, the matter could not be examined by the Consumer Fora, and the appropriate Forum, was the Civil Court. In Reliance Industries Ltd. v. United Insurance Co.,, (1998) CPJ 13, it was held by this Commission that when the questions of fraud and cheating are involved, in regard to the claim of the Complainant, which require thorough scrutiny, including the examination of various documents and supporting oral evidence, the Consumer Fora cannot adjudicate upon the matter. We don''t see any merit in this revision, as well in the application for condonation of delay of 65 days, which is not explained satisfactorily. Hence, on both the counts, we dismiss this revision petition. The petitioner can seek reference from the case of Laxmi Engineering Works v. P.S.G. Industrial Institute, : II (1995) CPJ 1 (SC) : (1995) 3 SCC 583, on the point of limitation. No orders as to costs.