

(2015) 03 NCDRC CK 0173

In the National Consumer Disputes Redressal Commission

S K Arshad

APPELLANT

Vs

Director, Sahara India Pariwar

RESPONDENT

Date of Decision : 13-03-2015

Acts Referred:

Citation : (2015) 03 NCDRC CK 0173

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

Final Decision : Petition dismissed

Judgement

1. THE main question which swirls around the present controversy is, "whether, at the time of death of late Sh. Md. Habib, he was aged about 62 years or less than 60 years -. One of the conditions enshrined in clause (a) of the terms and conditions is that the nominees of the Bond Holder shall be entitled for death help facility, subject to the condition that the age of deceased Bond Holder was between 16 and 60 years", at the time of death.

2. SAHARA India Pariwar, OP 1 and its functionaries, Regional Director and Branch Manager, OPs 2 and 3, respectively, used to collect money from its Branch Offices, from the public against its different Schemes with an assurance that it will provide financial benefits to the purchasers or their nominees / Legal Heirs, in the event of death of the purchaser. Lt. Sh. Md. Habib used to invest a sum of Rs.5,000/- under Claim No.S -10, w.e.f. 31.08.1998.

3. UNFORTUNATELY , Md. Habib, passed away, on 01.03.2002, leaving behind the aforesaid complainants/petitioners. The complainants/ petitioners filed claim which was repudiated by the OPs. The District Forum allowed the complaint. However, the State Commission, accepted the appeal of the OPs and dismissed the complaint. We have heard Amicus Curiae, on behalf of the petitioners/ complainants, at the time of admission of this case. She has invited our attention towards various documents from the record of the District Forum, which was requisitioned by us. Sh. Md. Ayub, father and only guardian of the complainants/ petitioners, filed an affidavit. He admitted that he is not in possession of the original Passport of late Sh.Md. Habib. He denied that late Sh.Md. Habib was

born on 01.03.1940. He, however, admitted that late Sh. Md. Habib, died on 01.03.2002. Then, there is an affidavit of Mst. Mamona Khatoon, W/o Sh. Asghar Ali, who is the eldest sister of late Sh. Md. Habib. She contended that she is 60 years" old and her brother (late Hd. Habib) was three years" younger to her. Sh. Md. Ayub and Mst. Mamona Khatoon, however, could not produce any documentary evidence to support all these pleas.

4. THE complainants have also filed an affidavit of Dr. Susanta Datta. He contended that late Sh. Md. Habib was admitted in Calcutta National Medical College and Hospital. He further stated that late Sh. Md. Habib was aged about 60 years", at the time of his admission in the said hospital.

5. LEARNED Amicus Curiae, for the petitioners, submits that all these facts go to prove that late Sh. Md. Habib was aged 60 years", at the time of his death.

6. ALL these documents carry exiguous value. It is not difficult to create such like evidence. Moreover, the case of the petitioners / complainants is an outlandish mish mash of half truths and half falsehood and contradictions. It clearly goes to show that the complainants/ petitioners have not approached this Commission with clean hands. In her affidavit, Mst. Mamona Khatoon stated that her brother, most probably, was born in the year 1953, meaning thereby her brother was 49 years" old at the time of his death. However, according to Dr. Susanta Datta, late Sh. Md. Habib was 60 years", at the time of his admission/death. Again according to Dr. Susanta Datta the deceased was 60 years at the time of his admission in the hospital. Her three years elder sister was also 60 years at that time. The two witnesses are not at all incompatible with each other. The complainants/petitioners have no set line of the claim.

7. MOST importantly, the deceased had the passport. The passport was not produced, despite the direction given by the District Forum. The District Forum noted that as per the contention of the OP, the daughter of Md. Habib submitted the death help claim before the OPs with a copy of passport wherein the date of birth was recorded as 01.03.1940. Since this document was produced by the complainants themselves, therefore, they cannot challenge it before the court of law. The State Commission was pleased to hold, as under : - "The RPO and CPIO issued a letter dated 19.05.2011 addressed to Sri Krishna Nanda De, Calcutta High Court, Sahara India, Zonal Office, Kolkata, 46, Dr. Sundari Mohan Avenue, Kolkata 700 014, in connection with the information sought under RTI Act, 2005, that the passport No. H -280111 dated 23.02.1965 was issued in favour of Md.Habib from Home (Passport) Department, Govt. of West Bengal. Admittedly, Md. Habib died on 01.03.2002. Evidently, therefore, the bond holder died at the age of 62 years. Therefore, the Clause 9(a) of the terms and conditions was not fulfilled. In the application form for death help benefit, it has been clearly mentioned that the date of birth of the bond holder was 01.03.1940. The complainant, therefore, is not entitled to get the death help benefit as the bond holder died at the age of 62 years. The learned District Forum was not justified in allowing the complaint".

8. IT must be mentioned here that the facts are stubborn things. The affidavits pale into insignificance as per the admissions made in the passport. The petitioners/complainants have made a vain attempt to make bricks without straw. The complainants have no bone to pluck with the OPs and, therefore, the revision petition is dismissed, at the admission stage. No order as to costs.