(1993) 05 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

SAUBHAGINI CHHOTRAY APPELLANT

Vs

BRANCH MANAGER, L.I.C. OF INDIA And OTHERS RESPONDENT

Date of Decision : 19-05-1993

Acts Referred:

Citation : 1993 2 CPR 375 : 1993 3 CPJ 1752

Hon'ble Judges : S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision : Complaint allowed

Judgement

1. COMPLAINANT is a widow. Her husband was serving under the Orissa State Electricity Board (for short ''the Board''). As per arrangement with the Board-the employer, salary saving scheme was introduced and risk of husband covered under three insurance policies under the scheme operated.

2. UNDER the scheme, employer undertakes to deduct the premium amount from the salary of the employee concerned and remit it to the insurer. While the Board was remitting premium in respect of three policies, in respect of one policy, i.e. policy No. 580030464, the risk covered was of Rs. 25,000/-. Employer did not deduct premium from salary and consequently did not remit the same to the insurer. Thus, since 1987 no premium had been paid in respect of this policy. Husband of the complainant died in the year 1991. Although claims under three policies have been settled, insurer repudiated the claim in respect of this particular policy covering the risk of Rs. 25,000/- on the ground it has lapsed on account of non-payment of premium. Finding no way out, complainant has approached this Redressal Agency.

Employer has not produced any single document where husband of the complainant ever instructed it not to deduct the premium amount in respect of this policy from the salary. Thus, we are satisfied that employee-deceased husband of complainant was always willing to continue the policy. It is true that in the scheme it has been written that the employer is agent of the insured and is to act on behalf of insurer for payment of the premium. However, the entire scheme is to be read as a whole. Insurer has got a role to play also. It has to prepare a list of the names of the employees from whom the employer concerned is to deduct the premium and remit it to the insurer. Account is received from the treasury. A comparision is to be made by the insurer and mistake, if any, is brought to the notice of the employee. No material has been produced before us to show that the insurer has discharged the obligation it has under the scheme. Thus, non-discharge of the obligation both by the employer as well as the insurer has resulted in this unfortunate situation where a lady is deprived of the legitimate claim on account of the risk covered by the insurer for an amount of Rs. 25,000/-.

3. TECHNICALLY insurer is correct. On account of non-payment of premium, the policy has lapsed. Mr. P.K. Mohanty strenuously contended that this is not deficiency in service. The claim has been repudiated on account of the term not being satisfied. Repudiation of the claim may not be a deficiency in service. Negligence in discharging the obligation to remind the employer under the scheme as a result of which the insurer suffered and consequently the complainant has suffered, is a deficiency in service. Employer is also responsible for it having undertaken to remit the premium amount regularly after deducting the same from the salary. There is no satisfactory reason as to why the premium amount was not deducted from the salary. There is clear negligence of opposite party No.1 in this case. It is stated that the employee was being transferred from place to place. As a result of which premium amount could not be deducted. When premium in respect of other policies could be deducted and paid to the insurer, this explanation in respect of one policy is a face saving one which cannot be accepted. Officers responsible not being careful to discharge their obligations for protecting the interest of the employee, are mainly responsible for constoraction ? in the mind of the employee which affects the administration and creates law and order problem in the State. Serious view is to be taken in these matters. Unless the delinquents are detected and dealt with, the result may become more serious. In this case, however, the premium has been deposited though after death of the employee. Taking the totality of the circumstance into consideration, we are satisfied that the insurer has received the payment and the lapse of the policy in on account of non-discharge of the obligation of the insurer as well as of the employer of the insured, we are inclined to hold that the suffering of the complainant can be mitigated on payment of Rs. 25,000/- by the opposite parties who are made jointly and severally liable. Life Insurance Corporation shall pay the amount of Rs. 25,000/- to the complainant as compensation and can recover the contributory share from the employer, if so advised. On payment of Rs. 25,000/- within a period of two months, no further payment towards the policy would be required and liability of the insurer shall stand discharged. If payment is not made within two months interest at the rate of 15% per annum from the date of application till payment.

4. BEFORE conclusion, we record our high appreciation for the able assistance by Mr. P.K. Mohanty in this complicated case but for which we could not come to a conclusion. In result, complaint is allowed. Complaint allowed.

