(2016) 03 NCDRC CK 0021

In the National Consumer Disputes Redressal Commission

Case No : 654 of 2015

SBI LIFE INSURANCE CO. LTD. APPELLANT

Vs

SEEMA & 2 ORS. RESPONDENT

Date of Decision : 17-03-2016

Acts Referred:

Citation : 2016 2 CPR 221

Hon'ble Judges : K.S. Chaudhari

Advocate : Kapil Chawla, Ishwar Lal

Judgement

1. This revision petition has been filed by petitioner against order dated 15.12.2014 passed by State Commission in F.A. No. 457/2012 Seema & Ors. Vs. SBI Life Insurance Co. by which while allowing appeal order of the District Forum dismissing complaint was set aside.

2. Brief facts of the case are that Late Rupinder Kumar husband of complainant no. Respondent No. 1 purchased insurance policy (SBI Life Money Back Plan) bearing No. 14010953605 from the respondents - petitioner after paying premium amount which was duly accepted by the respondents. The total sum assured of the above policy was Rs.4 lacs. After taking the above policy, Rupinder Kumar started paying instalments but unfortunately he expired on 06.12.2008 at DMC Hospital Ludhiana due to Cardio Respiratory Arrest. In order to get the insurance claim of her husband under the above said policies, the complainant no. 1 submitted claim form and all the medical reports to the respondents with request to release the same in her favour, but to the utter shock and surprise to the complainant, the respondents instead of releasing the claim amount issued a letter dated 11.06.2009 declining death claim against the above mentioned policy on the grounds that Late Rupinder Kumar was suffering from diabetes prior to the date of commencement of policy and thus he has not disclosed the material facts. Alleging deficiency on the part of the Opposite Party, complainant filed complaint before the District Forum. Opposite Parties resisted complaint and stated that there was a wilful concealment of vital information at

the proposal stage by the deceased life assured i.e. non-disclosure regarding his pre-existing illness and his habit of alcohol consumption and being a known case of Diabetes Mellitus Type II for the past five years. It was further submitted that as per certificate of Mr. Munish Khurana, Mediworld the deceased was under their treatment for the last 5-6 years Diabetes Mellitus Type II and was on lantus insulin. OPs had rightly repudiated the claim of life assured on legal grounds and as per terms and condition of the policy and prayed for dismissal of complaint. Ld. District Forum after hearing both the parties dismissed the complaint and appeal filed the complainant was allowed by the Ld. State Commission vide impugned order and Opposite Parties were directed to pay amount of policy as per claim alongwith Rs.20,000/- as compensation and Rs. 11,000/- as cost of litigation against which this revision petition has been filed.

3. Heard ld. counsel for the parties finally at admission stage and perused record.

4. Ld. counsel for the petitioner submitted that inspite of proof that deceased has suppressed material information regarding his health and illness, ld. State Commission committed error in allowing appeal and allowing claim, hence, revision petition be allowed and impugned order be set aside. On the other hand, ld. counsel for respondents submitted that order passed by the Ld. State Commission is in accordance with law, hence, revision petition be dismissed.

5. Perusal of record reveals that deceased Rupinder Kumar filled proposal form on 12.12.2007 and obtained policy from Opposite Party. In this proposal form he has denied that he was consuming alcohol and he has also denied about suffering from diabetes. Certificate dated 11.02.2009, issued by Dr. Munish Khurana depicts that late Mr. Rupinder Chadda was under his treatment as OPD patient for last 5-6 years for Diabetes Mellitus Type II. It was further mentioned that he referred Rupinder Chadda to a higher centre in November 2008 for management of un-waiting diarrhoea for approximately one month duration. Dr. Ajeet Sood, Professor and Head of Gastro-ontology, DMC and Hospital, Ludhiana who attended deceased has given certificate which depicts that Rupinder Chadda first time consulted him on 28.11.2008 and he was suffering from DM II since last five years and he was chronic alcoholic and his cause of death was Alcohol Liver Cirrhosis. This document makes it crystal clear that since last five years

Rupinder was suffering from diabetes and he was chronic alcoholic and on account of this he expired. He suppressed this information in proposal form rather gave false information regarding his health and consumption of alcohol and on account of false information, insurance policy obtained by deceased by suppressing material information regarding his health, stands voidable on the part of the OP and OP has not committed any mistake in repudiating the claim as there is direct nexus between material facts suppressed and cause of death.

6. Ld. Counsel for respondents submitted that in the absence of any affidavit of evidence in support of certificate issued by Dr. Khurana and Dr. Ajeet Sood, these documents cannot be believed. This argument is devoid of force because these

certificates have been given by the treating doctors and there is no reason to disbelieve these documents and as per complaint, deceased expired in DMC Hospital. Complainant has not placed on record any document to show that deceased was not chronic alcoholic since last five years.

7. Ld. Counsel for respondents has placed reliance on the judgment of this Commission in 2012 (1) CPJ 204 Sushil Kumar Jain Vs. United India Insurance Company in which repudiation was set aside as at the time of taking medi-claim policy, complainant had only signed the cover note and insurance company had not annexed detailed proposal form so there was no question of suppression of material information pertaining to his health in proposal forum. This case does not help to the respondents as proposal form has been signed by deceased in which wrong information has been supplied by him. Ld. Counsel for respondents also placed reliance on the judgment of this Commission in 2013 (4) CPJ 127 New India Assurance Co. Ltd. Vs. Mohinder Kaur in which repudiation of claim was not held proper as death occurred due to brain tumour, but insurance company did not placed on record C.T. Scan to show right basifrontal meningioma taken in 1988. Facts of this case are also not applicable to the present case as in the aforesaid case report was given by doctor after 27 months, whereas in the case in hand, treating doctor himself recorded history of patient given by patient. He also placed reliance on the judgment of this Commission in 2007 (3) CPJ 336 M/s. Aviva Life Insurance Co. India Pvt. Ltd. Vs. T. Umavathi in which repudiation was not held proper as there was causal observation by doctor about diabetes and there was no evidence to prove that disease, whereas in the case in hand, there is ample evidence on record to prove that deceased was suffering from diabetes since last more than five years and was chronic alcoholic on account of which he died.

8. In the light of aforesaid discussion, it becomes clear that ld. State Commission has committed error in allowing appeal and impugned order is liable to set aside.

9. Consequently, revision petition filed by the petitioner is allowed and order dated 15.12.2014 passed by learned State Commission in F.A. No. 457/2012 Seema & Ors. Vs. SBI Life Insurance Co. is set aside and order of the District Forum dated 01.03.2012 passed in complaint no. 905/2012 dismissing complaint is affirmed. Parties to bear their costs.