(1999) 11 NCDRC CK 0090

In the National Consumer Disputes Redressal Commission

Senior Divisional Manager, LIC of India APPELLANT

Vs

P.U.SUHARA SHERIFF RESPONDENT

Date of Decision : 01-11-1999

Acts Referred:

Citation : 2000 3 CPJ 419

Hon'ble Judges : L.Manoharan , K.M.Latha J.

Final Decision : Appeal dismissed

Judgement

1. THE opposite parties in O.P. 743/98 on the file of the Consumer Disputes Redressal Forum, Ernakulam are the appellants. THE complainant''s husband took two policies for one lakh each. THE insured died on 29.10.1996 in the R.K. Hospital, Muvattupuzha due to Cardiac Arrest. Complainant made a claim in 1996 itself but even after 1 years the opposite party did not settle the claim, she sent Lawyer''s notice on 15.1.1998. THEn the opposite party intimated by letter dated 13.4.1998 the repudiation of the claim. THE ground stated in the repudiation is not true or correct, therefore, the complainant wanted a direction to the opposite party to pay the policy amount with 18% interest and also compensation. THE opposite party in their version supported the reason for repudiation of the claim maintaining that the deceased was guilty of suppression of material facts. THE policy was in a lapsed condition both which was got revived by the insurer and since the death was within two years of the revival, they made investigation and it was discovered that the insured had an attack of Rheumatic Arthritis and had taken treatment in 1994, that he was on leave for 19 days, that he was treated for infectious hepatitis at the Government Hospital, Muvattupuzha on 2.5.1995 for a period of twenty two days and in the application for revival the insured suppressed those facts. THErefore, they maintained that the repudiation of the claim is only on genuine grounds. Before the District Forum complainant produced Exts. A1 to A14 and opposite party produced Exts. B1 to B4. On a consideration of the said materials the District Forum made a direction to the opposite parties to consider the claim lodged by the complainant on merits and in the light of the observation made in the order.

2. LEARNED Counsel for the appellant sought to maintain that the view taken by the District Forum that there is no suppression of material fact is not correct. LEARNED Counsel referred us to the decision of the National Commission in I (1998) CPJ 2 (NC), in support of the said submission. The allegation of suppression of material facts with respect to Ext. B13 proposal, it is pointed by the District Forum, that the said proposal was on 8.3.1995. B8 and B9 since showed that he was undergoing treatment for infectious hepatitis and viral fever were after Ext. B13. So there could not be any question of suppression of material fact in that regard. Rheumatic Arthritis was from 15.4.1994 that too was after B13. With respect to B2 proposal dated 1.3.1996 for Ext. B1 policy the infectious hepatitis was in 1995 and rheumatic arthritis was in 1994 those the said facts were not disclosed in Ext. B2 proposal. District Forum deals with the effect of the non-disclosure of the same in para 6 of the impugned order, and finds that the argument by the opposite party on the basis of the principle, contract of insurance is a contract of uberieme fide was not accepted holding that the nature of the deceased is such that the same cannot be treated as suppression of material fact. The District Forum observes that since the cause of death as per Ext. B14 medical attendance certificate is hyocardial infraction and cardiac arrest; there being no evidence before the District Forum to show that the person who had infectious hepatitis or rheumatic arthritis could have atleast a remote possibility of getting cardiac arrest in future that cannot be held to suppression of material fact. The District Forum also went into the contents of Ext. B14 having regard to the nature of the disease which he had before the Ext. B2 proposal and also cause of death. The view taken by the District Forum that the same cannot be treated as suppression of material fact cannot be said to be in any way faulty. The decision cited by the learned Counsel for the appellant in Ajay Prakash Mittal v. Life Insurance Corporation of India, I (1998) CPJ 2 (NC), is distinguishable inasmuch as the deceased did not disclose pregnancy at the time of proposal and instruction of the Corporation was, not to insure the pregnant lady until six months had expired after delivery. That is not the case here. In the said view we are unable to agree with the learned Counsel for the appellant. We see nothing to interfere in the order, the appeal fails and the same is dismissed. Appeal dismissed.

