(2014) 04 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

SHEELA DEVI APPELLANT

Vs

LIFE INSURANCE CORPORATION OF INDIA RESPONDENT

Date of Decision : 16-04-2014

Acts Referred:

Citation : 2014 0 NCDRC 196

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : ASHOK MATHUR , JAYA TOMAR

Judgement

1. THIS revision petition has been filed by the petitioner against the impugned order dated 31.07.2012 passed by the Himachal Pradesh State Consumer Disputes Redressal Commission (for short ''the State Commission'') in FA No. 250/2010, ''''Life Insurance Corporation of India versus Smt. Sheela Devi '''' by which while allowing the appeal, order of District Forum allowing the complaint was set aside.

2. BRIEF facts of the case are that complainant-petitioner''s husband deceased Bhagwan Das obtained insurance policy of Rs.1 lakh from opposite party-respondent on 07.11.2006. Assured left his house on 01.01.2008 on scooter for his place of duty, where he was supposed to reach at 5.30 a.m. At 10.30 a.m., telephone call was received from Shri Ram Swarup, President of the Union that deceased assured had not reached to the office. Matter was reported to the Police and deceased ''s brother Jagtar Singh and some other residents of the village started search. Skid marks of the scooter were found on the bank of canal and the packet of sweets which deceased was carrying with him for distribution to his colleagues on account of promotion was found lying near the skid marks. On 3.01.2008, dead body of Bhagwan Das was taken out of the canal. Complainant lodged claim with the opposite party which was repudiated by opposite party. Alleging deficiency in service on the part of the opposite party, complainant filed complaint before the District Forum. Opposite party resisted complaint and submitted that on account of non-payment of premium due on 07.11.2007, policy had lapsed and further submitted that amount deposited after

lapse of policy after the expiry of 30 days grace period cannot revive policy and prayed for dismissal of complaint. Learned District Forum after hearing the parties allowed complaint and directed opposite party to pay money due under the policy with interest and further awarded Rs. 1500/- as litigation expenses. Appeal filed by the opposite party was allowed by State Commission vide impugned order against which this revision petition has been filed. Heard learned counsel for the parties finally at admission stage and perused the record.

3. LEARNED counsel for petitioner submitted that as premium deposited by deceased was accepted by opposite party before his death, opposite party was liable to make payment as per terms of the policy and learned District Forum rightly allowed the complaint but the State Commission committed error in allowing the appeal hence impugned order be set aside.

4. ON the other hand, learned counsel for respondent submitted that impugned order passed by learned State Commission is in accordance with law and hence, the revision petition be dismissed. It is not disputed that deceased Bhagwan Das obtained insurance policy from opposite party on 07.11.2006 and premium due on 07.11.2007 was not paid. It is also not disputed that payment of premium was made on 1.1.2008 at 12 noon. As per clause 2 of the terms and conditions of policy, grace period of 30 days was allowed for payment of yearly and half-yearly premium and if premium is not paid within the grace period, the policy lapses. Admittedly, premium was not paid within 30 days from 5.11.2007 due date for payment of premium, and policy stood lapsed on 01.01.2008. As per condition 3, policy can be revived subject to payment of arrear of premium with interest but LIC has right to accept or decline the revival of discontinued policy and revival of discontinued policy shall be effective only after the same is approved by the Corporation and specifically communicated to the life assured.

5. IN this case, learned counsel for the petitioner has not placed any document on record to substantiate that revival of discontinued policy has been approved by respondent and communicated to the life assured or petitioner. In such circumstances, discontinued policy does not stand revived and petitioner is not entitled to receive maturity amount.

6. LEARNED counsel for the respondent further submitted that premium was deposited on 1.1.2008 after the death of assured and in such circumstances, policy could not have been revived. In support of his contention, he has placed reliance on statement of deceased ''s brother Jagtar Singh in which he has stated that his brother Bhagwan Das went on scooter to attend his duty from 6 a.m. to 2 p.m. Bhagwan Das left house at 5:30 a.m. but at 10:30_a.m. received telephone call from Ram Swarup, President of the union that Bhagwan Das did not reach on duty. In his statement, he further admitted that near Nokia Bridge, there were marks of tyres of scooter on the bank of canal and found sweets box near the slab of the canal and his brother died due to fall in the canal. Dead body was also recovered from the canal on 03.01.2008. In such circumstances, learned State Commission rightly observed that deceased fell in the canal at

about 5:30 a.m. on 01.01.2008 and in such circumstances, premium amount could not have been deposited by him on 1.1.2008 at 12 noon and it seems that premium amount has been deposited by some other person after the death of assured Bhagwan Das. As policy was not revived before death of assured, learned State Commission rightly allowed the appeal and dismissed the complaint. Learned counsel for the petitioner has drawn my attention towards post-mortem report of the deceased in which it has been mentioned that death occurred between 36 hours to 7 days. Admittedly, post-mortem was conducted on 3.01.2008 at 4:00 p.m. Merely, because it has been mentioned in the post-mortem report that death occurred between 36 hours to 7 days from the time of post-mortem, it cannot be inferred that death occurred on 1.1.2008 after 12 noon. Had it been so, deceased must have joined office at 6 a.m. and distributed sweets to his colleagues on account of his promotion. No evidence has been led by petitioner to prove the facts that deceased joined office on 1.1.2008 and in such circumstances, it can very well be inferred that deceased while going to his office on scooter fell in the canal and died.

7. I do not find any illegality, irregularity or jurisdictional error in the impugned order and revision petition is liable to be dismissed.

8. CONSEQUENTLY , revision petition filed by the petitioner is dismissed with no order as to costs.