(1997) 09 NCDRC CK 0059

In the National Consumer Disputes Redressal Commission

S.L.DUTT APPELLANT

Vs

NEW INDIA ASSURANCE CO.LTD RESPONDENT

Date of Decision : 22-09-1997

Acts Referred:

Citation : 1997 3 CPJ 506 : 1998 1 CLT 324

Hon'ble Judges : M.R.Agnihotri , Sushil Paul , A.D.Malik J.

Final Decision : Appeal dismissed

Judgement

1. THE complainant has come up in appeal against the order dated 13.8.1996 whereby his complaint has been dismissed by the learned District Consumer Forum, Gurgaon.

2. THE complainant had obtained a mediclaim cover in September, 1992, from the New India Assurance Company. In September, 1993, he again obtained the same by opting for the mediclaim cover plan 5 offering him medical reimbursement upto Rs. 54,000/- in the event of hospitalisation. He received a Referral Form from the Divisional Manager, New India Assurance Company, Bangalore, for the mediclaim cover with the advice that the said Form should be returned to him duly completed. He filled in the said Form and sent it back with the request that the premium amount of Rs. 625/- may be debited to his City Bank Card number, which was mentioned in the policy. THEre after on 28.12.1994 the complainant got hospitalised on account of acute unstable angina in Doctor Ram Manohar Lohia Hospital, New Delhi. As he was found in critical condition, he was shifted to the Escort Heart Institute on 25.1.1995. THE case of the complainant is that when his subsequent policy was accepted with extension and his mediclaim/medisave cover September-October, 1994 was a valid transaction for the commencement of the policy, he was entitled to the entire claim and, thus, demanded compensation from the Insurance Company for the delay and deficiency in service. In its pleadings, the Insurance Company took a number of objections and placed reliance on various documents. It was also pleaded by the Company that the complainant had not led any evidence to show

that the Referral Form had been sent back to the Insurance Company or even to the City Bank. When he, the complainant, appeared in the witness box he stated that the New India Assurance Company did not send him any form and as such the form too was returned to the City Bank. It was in these circumstances that the complaint was disposed of by the learned District Consumer Forum, Gurgaon, with the following observations: "But in the present circumstances no policy came into existence. Simply because the complainant was obtaining policy for the last two years, it could not be inferred that some contract came into existence automatically for the third year. The Bank or the Insurance Company were also not bound vcase they had been sending the form earlier, it does not mean that it was so sent in October, 1994. In case the complainant wants to establish that a contract of mediclaim policy had come into existence between the parties on the basis of the circumstances of the case, and by leading elaborate evidence he can seek remedy in the civil Court. So, this complaint on its facts is not maintainable in consumer jurisdiction and the same is hereby dismissed."

Aggrieved by the said order, the complainant has sent the memorandum of appeal by post. On our issuing the notice, he appeared in person and had submitted his written submissions alongwith the necessary documents. The learned Counsel for the opposite party has also placed on record his written submissions.

After going through the same and having perused the record, we do not find any new ground in the memorandum of appeal or the written submissions filed by the complainant-appellant. The very nature of the litigation, the frequent references to the voluminous record and the correspondence between the parties running into series of letters lend support to the view taken by the learned District Forum that such a matter is not maintainable under the consumer jurisdiction and the question whether a regular contract of mediclaim policy had come into existence between the parties or not can only be decided by leading elaborate evidence.

3. CONSEQUENTLY, we do not find any merit in this appeal and the same is dismissed as there was no legal infirmity in the view taken by the learned District Consumer Forum. Appeal dismissed.