(2005) 09 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE CO LTD APPELLANT

Vs

Kusum Chaturvedi RESPONDENT

Date of Decision : 21-09-2005

Acts Referred:

Citation : 2005 4 CPJ 361 : 2006 2 CLT 197

Hon'ble Judges : V.K.AGRAWAL , VEENA MISRA J.

Judgement

1. THIS appeal under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 25.11.2003, in Complaint No. 386/2002, by the District Consumer Disputes Redressal Forum, Durg (hereinafter called the District Forum for short) directing that the appellant/insurer as well as respondent No. 4 - Hindi daily newspaper Nav Bharat would be jointly and severally liable to pay to the assured an amount of Rs. 60,000 with interest @ 6% as also Rs. 10,000 as compensation for mental harassment to the complainant/respondent Nos. 1 to 3 herein.

2. INDISPUTABLY , Pradeep @ Pappu Chaturvedi -the husband of respondent No. 1 and father of respondent Nos. 2 and 3, was a subscriber of respondent No. 4 Nav Bharat newspaper. The respondent No. 4 floated and published a scheme (Annexure -1) by which, it was proposed that those subscribers of Nav Bharat newspaper shall be entitled to Personal Accident Insurance cover for a period of one year who would pay its subscription for 3 months. It is also not in dispute that Pappu @ Pradeep Chaturvedi paid 3 months subscription on 25.11.2001 as per receipt marked as document No. 1. Thus the condition entitling him to insurance cover as above. It is further not in dispute that Pradeep Chaturvedi had died as he met with an accident on 8.12.2001 on Mandla Road. The complainants lodged their claim with respondent No. 4 for payment of the assured amount. Since their claim was not paid, they preferred the complaint before the District Forum. The appellant/insurer as well as newspaper respondent No. 4 resisted the complaint. The resistance in substance of the appellant to the claim of the complainants was that as the premium was received by the

Insurance Company after the death of Pradeep Chaturvedi, therefore, the risk of the life of the said Pradeep Chaturvedi, was not covered by the policy issued by them.

3. THE District Forum repelled the contention as above. It was held that since the subscription for 3 months was paid by the deceased and as the payment thereof entitled him to the coverage of risk under the policy, therefore, complainants were entitled to the benefit under the policy. The appellant and respondent No. 4 were, therefore, directed to pay the assured amount as well as compensation of Rs. 10,000 to the complainants.

4. LEARNED Counsel for the appellant and respondent No. 4 were heard. None appeared at the time of final hearing for complainants/respondent Nos. 1 to 3. Learned Counsel for the appellant has also filed an application under Order 41 Rule 27 praying for permission to file certain documents. The said documents include the Proforma of the Group Personal Accident policy, the copy of document issued by the respondent No. 2, containing terms of offer as well as the letter dated 31.1.2002 issued by the appellant. Since the said documents are not in dispute and would facilitate the disposal and consideration of the questions involved in this appeal, the application is allowed.

5. IT was submitted by the learned Counsel for the appellant that as per the terms published by the respondent No. 4, newspaper Nav Bharat, the policy was to come into effect from the date it was made effective by the insurer. The learned Counsel for the appellant/insurer further submitted that, as per certificate of insurance filed in this appeal and marked as document No. 10 the policy came into force w.e.f. 1.2.2002 i.e., after the death of Pradeep Chaturvedi. Hence, the complainants were not entitled to any benefit under the said policy. It was also urged by the learned Counsel for the appellant/insurer that as per letter dated 30.1.2002, the risk was to be covered only after the premium amount was received.

6. IT may be noticed in the above context that the appellant has failed to produce the document showing the date on which the policy relating to the deceased Pradeep Chaturvedi came into effect. There is, of course, a document (Annexure 2) filed in the complaint, which is a certificate of insurance indicating that the said policy document was effective from 1.2.2002 to 31.1.2003. However, the said document by itself, would not show that the policy relating to Pradeep Chaturvedi was effective from the said date. It appears from the documents filed in this appeal that other similar policy documents covering risk from 14.10.2001 to 13.10.2002 were also issued by the appellant/insurer. That being so, it was imperative to file documents showing as to from what date policy covering the risk relating to the deceased was issued. It may further be pointed out, in the above context, that the memo of understanding or agreement between the appellant/insurer and respondent No. 4 would have been relevant, as it would have shown as to how and when the policy relating to the particular subscriber was to be made effective. However, no such document was produced,

despite opportunity granted to the appellant and respondent No. 4 as would be clear from the order sheet dated 16.9.2004 of this appeal, which has also been specifically brought to the notice of the appellants Counsel at the time of final hearing. As noted earlier, the deceased had already paid premium in the month of October, 2001 to the respondent No. 4 in pursuance of the scheme issued by the latter. Therefore, the deceased having paid the premium was entitled to benefit under the insurance cover agreed to be extended by the appellant/ insurer. Payment of the premium by the respondent No. 4 to the appellant would amount to payment thereof to the appellant/insurer, as the respondent No. 4 acted as the appellants agent in that regard. In the above context reference may be made to the Order of the State Commission, M.P. in Ram Kumar Kaushikiya & Anr. v. Nav Bharat Dainik Samachar Patra & Anr., III (2005) CPJ 479.

7. THE learned Counsel for the appellant also submitted that by their letter dated 30.1.2002, (document No. 3) the respondent No. 4, Deputy General Manager of respondent No. 4 was intimated by the appellant that the policy under the scheme should have one policy period, wherein all subscribers would be covered and that it may not be possible for the appellant to have several periods of insurance. It was also requested that the scheme be closed early so that there is no plurality of insurance period. However, we find that the different policies covering risk for different periods have been issued in the instant case, as would be clear from the various copies of the policies filed on record in the complaint and in this appeal. Moreover, subsequent letter dated 30.1.2002 sent by appellant to respondent No. 4, after the death of the deceased would in no manner prejudiced the rights of the complainants the successor of the insured deceased Pradeep Chaturvedi. In any case, as the deceased had paid the subscription in October, 2001, as has already been mentioned he was entitled to the coverage of risk of his life, notwithstanding the fact that the premium was actually sent or received by the appellant/insurer respondent No. 4 later.

8. IN view of the above, it is clear that the District Forum justifiably directed the appellant to pay the assured amount to the complainants/respondent Nos. 1 and 3. Since harassment, inconvenience and loss must also have been caused to the complainants/respondent Nos. 1 to 3, award of compensation also appears to be justified. Accordingly, we do not find any reason for interference in the impugned order. This appeal has no substance. It is accordingly, dismissed. The impugned order is affirmed. Appeal dismissed.