(2007) 10 NCDRC CK 0050

In the National Consumer Disputes Redressal Commission

UNITED INDIA INSURANCE COMPANY — APPELLANT

Vs

ANUMOLU RAMA KRISHNA — RESPONDENT

Date of Decision : 04-10-2007

Acts Referred:

Citation : 2008 2 CPJ 291 : 2008 2 CPJ 374

Hon'ble Judges : M.Shreesha , G.Bhoopathi Reddy J.

Final Decision : Appeal dismissed

Judgement

1. MRS. M. Shreesha, President I/c-Aggrieved by the order in C. C. 134/2003 on the file of District Forum, West Godavari at Eluru, the opposite parties preferred this appeal under Section 15 of the Consumer Protection Act, 1986.

2. THE brief facts as set out in the case are that the complainant has taken Medi-claim Insurance Policy on 24. 9. 2001 from opposite parties for himself and his wife for the period from 24. 9. 2001 to 23. 9. 2002. As the complainant felt burning sensation and difficulty in breathing on medical advice, he got himself admitted in Mullapudi Hospital on 30. 10. 2001 wherein they conducted various tests and decided to conduct CABG operation on 8. 11. 2001. The complainant submits that the said fact was informed to opposite party No. 2 vide letter dated 8. 11. 2001. The complainant submits that in spite of furnishing all the necessary documents to opposite party No. 2 the claim lodged by the complainant for an amount of Rs. 2,20,076 has not been settled by the opposite parties. After a long lapse of 12 months the opposite party No. 2 repudiated the claim on the ground that CABG existed prior to taking the policy. Complainant submits that he was hale and healthy at the time of taking the policy and that though he was subjected to medical examination on 23. 9. 2002 and submitted all the case records relating to the operation issued by Mullapudi Hospital the opposite parties repudiated the claim nearly after one year on the ground of suppression of pre-existing disease at the time of taking the policy. The action of the opposite parties in repudiating the medi-claim of the complainant amounts to deficiency in service. Hence this complaint praying to direct the opposite parties to pay Rs.

2,90,000 with interest @ 12% p. a. , from February, 2002 till the date of payment and compensation of Rs. 25,000 towards mental agony. Opposite party No. 2 filed counter admitting the existence of policy in question and contends that the complainant suppressed the material facts relating to his health at the time of taking the medi-claim policy. Opposite party submits that the policy was issued based on the declaration made by the complainant and the medical certificate issued by Dr. K. Viswaswara Rao in good faith. Opposite party submits that they received a letter dated 8. 11. 2001 from the wife of the complainant stating that her husband was admitted to Usha Mullapudi Cardiac Centre, Hyderabad for Coronary Bypass Surgery on 8. 11. 2001. Immediately the Divisional Office deputed Mr. L. Siva Shanker, an Investigator to investigate the claim. On receipt of Investigation Report the opposite party asked the complainant to meet their Panel Doctor Dr. Kodali Rama Krishna along with ECGs and TMT reports taken prior to operation but the complainant though appeared before the panel doctor did not produce the said reports. On receipt of report from the Panel Doctor the opposite parties had reasonable doubts about the pre-existing nature of the disease of the complainant, therefore, appointed another Investigator Mr. G. Prabhakara Rao, who is an Advocate along with Dr. Vinjamuri Bhaskara Rao. In his report he observed that as per the case sheet the patient/ claimant is a highly diabetic, Hypertensive, which might be existed with the patient since seven years as they are chronic diseases. Dr. Vinjamuri Bhaskara Rao in his report dated 28. 1. 2003 observed that the complainant has three disease Diabetics, Hypertensive and Dyslipedemia which are chronic in nature, much before taking of Mediclaim policy. The opposite parties submit that the claim preferred by the complainant is not admissible in terms of the policy condition exclusion No. 4. 1, as the disease CABG existed prior to taking of policy; therefore, they repudiated the claim on 13. 2. 2003. There is no deficiency of service on their behalf and seek dismissal of the complaint.

Learned Counsel for the appellant/opposite parties submitted that the life assured suppressed Coronary Artery Disease (CAD) and because of suppression of material facts relating to his health their repudiation is justified. He further contended that the policy was obtained on 24. 9. 2001 and the operation was conducted on 8. 11. 2001 and that the CAD cannot be developed within a period of 45 days.

3. WE have gone through the Discharge Summary filed by the appellant herein. The clinical summary states as follows: clinical Summary: 52 years old male presented with history of chest pain of one week duration and was diagnosed as unstable angina. He underwent cath and coronary angiography which showed 90% stenos is of distal left main with subtotal occlusion of proximal RCA. He was advised early CABG with preoperative IABP support. IABP was placed in cath lab following coronary angiography through left femoral artery surgery. There is no history suggestive of MI in the past. In hospital his blood sugars are found to be high and was put on medication. It is pertinent to note from the discharge summary that the complainant had chest pain only for one week duration and

that there is no history suggestive of MI in the past. Therefore, the contention of the opposite parties that he was suffering from CAD and was in the knowledge of this disease and deliberately suppressed it prior to issuance of the policy is unsustainable. Though the contention of opposite parties that CAD cannot be developed in a period of 45 days is reasonable but the appellant/opposite parties failed to establish that this disease was in the knowledge of the life assured and that he deliberately suppressed it. The clinical record shows that the life assured had history of chest pain only for one week duration and that he had no previous history of any heart disease. Therefore, we seen no reason to interfere with the well considered order of the District Forum.

4. IN the result this appeal fails and is accordingly dismissed. Time for compliance six weeks from the date of receipt of this order. Appeal dismissed.

