(2003) 05 NCDRC CK 0110

In the National Consumer Disputes Redressal Commission

URMILA DEVI APPELLANT

Vs

DIVISIONAL MANAGER, LIC OF INDIA RESPONDENT

Date of Decision : 12-05-2003

Acts Referred:

Citation : 2004 3 CPJ 600

Hon'ble Judges : M.Katju , R.S.Tripathi J.

Final Decision : Writ Petition allowed

Judgement

1. THIS writ petition has been filed for a mandamus directing the respondent Life Insurance Corporation to provide the accident benefit under the Insurance Policy No. 280335095.

2. HEARD learned Counsels for the parties. The husband of the petitioner was insured with the Life Insurance Corporation. It is alleged in para 2 of the petition that after the insurance the petitioner deposited a number of instalments within time. Unfortunately the husband of the petitioner Deep Chand Verma died on 24.7.1991 due to an accident in which head injury was caused. The information of this was given to the respondent No. 2 by the petitioner on 22.8.1991 vide Annexure 1. The petitioner, filed a claim petition for the insurance money along with relevant certificate as stated in paras 4 and 5 of the petition. The police submitted a final report mentinoning cause of death as accidental. It is alleged in Para 6 of the petition that after the accident the deceased was admitted in Primary Health Centre, Jammu for treatment and the Medical Officer issued a death certificate mentioning that the death is due to head injury, Copy of the medical certificate is Annexure 4. However, the claim of accident benefit was refused on the ground that the police had submitted a report that Deep Chand Verma was a heart patient. Copy of order dated 17.9.1993 is Annexure 6. It is stated in the order that the deceased was a heart patient and died while climbing stairs. The petitioner made a representation vide Annexure 7 and several reminders, and thereafter the petitioner filed Writ Petition No. 25380 of 1994 which was decided vide Annexure 8. The representation filed by the petitioner

was rejected vide Annexure 9 to the petition. By an amendment, the orders dated 17.9.1992 and 6.9.1994 have also been challenged.

A counter affidavit has been filed on behalf of the respondents. In para 4 of the same it is stated that the writ petition involves highly disputed question of facts and the same cannot be decided in writ jurisdiction. In para 5 it is stated that the deceased was an old heart patient and this fact should have been disclosed in the Life Insurance Policy but the same was not done. In para 8 it is stated that the deceased was an old heart patient and Vaishnav Devi Temple is situated at a very great height and a heart patient climbing the stairs could have suffered heart attack as a result of which he could have fallen on the stairs causing head injury. No post-mortem was done and as such it could not be said that the accident was the prime cause of his death. Under no circumstances this could be called a case of accident within the policy conditions. A copy of the policy of the deceased is Annexure 2 to the counter affidavit. True copy of the FIR is Annexure 3. It is stated that this does not give the correct position as there was no post-mortem of the body and the cause of death could not be correctly ascertained.

3. IN our opinion this writ petition deserves to be allowed. From the FIR copy, of which is Annexure 3 to the counter affidavit, and the medical certificate, copy of which is Annexure 4 to the writ petition, it is clear that the petitioners'' husband had died due to head injury as a result of accident by climbing stairs. Neither the First INformation Report nor medical certificate corroborate the version of the respondents that the deceased died due to heart disease. IN fact the medical certificate states that the deceased had no illness. Thus, the respondents arbitrarily refused to allow the petitioner''s claim. The writ petition is allowed and we issue a mandamus directing the respondents to pay the petitioner the amount under the Life Insurance Corporation forthwith.

4. BEFORE parting with this case we would like to mention that the LIC often refuses to allow claims arbitrarily and for no good reason. This is not proper. The LIC is a public sector statutory body and it should act in a bona fide, reasonable manner in the public interest and not harass the public. In the present case it has unnecessarily and arbitrarily harassed a widow, which was not proper. Writ petition allowed.