(2012) 01 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

Usha Sharma And Ors. APPELLANT

Vs

New India Assurance Co. Ltd. and Ors. RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Citation : 2012 1 CPJ 488

Hon'ble Judges : ASHOK BHAN J.

Final Decision : Petition dismissed

Judgement

1. COMPLAINANTS /Petitioners have filed this Revision Petition against the final judgment and order dated 3.4.2007 passed by the Uttar Pradesh State Consumer Disputes Redressal Commission, Lucknow (in short, ''the State Commission'') in appeal No. 618/07 whereby the State Commission dismissed the appeal filed by the Petitioners upholding the order passed by the District Forum. Facts:

Satya Dev Sharma, late husband of the Complainant/Petitioner No. 1, Smt. Usha Sharma obtained a long term Janata Personal Accident Insurance Policy from the Respondent Insurance Company. He paid premium of Rs. 1,250 and a policy bearing No. 4712060502113 valid for 16.1.1997 to 15.1.2007 was issued to him by the Respondent No. 3 on 16.1.1997. As per terms and conditions of the policy, the legal heirs of the insured were entitled for Rs. 5 lakh from the Insurance Company in case of death of insured during the validity of the insurance policy. The insured, Satya Dev Sharma died on 24.7.2003 in a train robbery. Petitioners being legal heirs of the deceased insured submitted their claim along with all the documents with the Respondent Insurance Company which repudiated the same on the ground that the policy in question was cancelled during the life time of the insured and an intimation to this effect along with cheque of Rs. 601 towards the balance period was sent to the insured with registered letter dated 28.3.2002. Complainants, being aggrieved, filed the complaint before the District Forum.

2. RESPONDENTS , being served, entered appearance and filed their joint written statement. It was not disputed that a long term Janata Personal Accident policy

No. 4712060502113 valid for 16.1.1997 to 15.1.2007 was issued to the deceased insured for Rs. 5 lakh. However, it was contended that as per term and condition No. 5 of the said policy of insurance all the long term Janta Personal Accident Insurance Policies were cancelled/ withdrawn as per the decision taken by the Insurance Company; that the information to this effect was widely published in the various newspapers in the first week of April, 2002; that as per the said decision of cancellation of the policy, a letter dated 28.3.2002 along with cheque for Rs. 601 dated 28.3.2002 towards the balance premium was sent to the insured by registered post and the said cheque was duly encashed by the insured as the cheque was never returned by him; that the said cheque was accepted by the deceased insured towards the unexpired/ uncovered period of policy of insurance without any protest. District Forum dismissed the complaint holding that as per condition No. 5 of the said policy, the Insurance Company was well within its right to cancel the policy in question and the intimation to that effect was widely published in various newspapers and even individual information was given to all policy holders. It was also held that the policy was cancelled on 28.3.2002 during the life time of the insured who died on 24.7.2003 and the insured was duly intimated by registered letter by the Respondent Insurance Company.

Petitioners, being aggrieved, filed the appeal before the State Commission which has been dismissed by the impugned order. Heard the learned Counsel for the parties at length.

3. LEARNED Counsel appearing for the Petitioners contends that the Insurance Company was having no reason or right to cancel the policy. That the intimation of cancellation of the policy and the cheque of Rs. 601 towards balance premium was never received by the deceased policy -holder.

4. AS against this, learned Counsel appearing for the Respondent Insurance Company submits that the Insurance Company rightly repudiated the claim of the Petitioners as in terms of the condition No. 5, policy was cancelled on 28.3.2002 during the life time of the policy holder and an intimation along with cheque of Rs. 601 towards balance premium was sent to the insured by a registered letter which was never received back and deemed to be served as enumerated in condition No. 5 of the policy. He further submits that the said cheque was accepted by the insured without protest and was encashed also. It is not disputed before us that the policy in question was issued to the complainant No. 1''s husband, Satya Dev Sharma and as per the terms and conditions of the policy, the Insurance Company was liable to pay a sum of Rs. 5 lakh to the legal heirs of the insured in case of his death during the currency of the policy. As per condition No. 5 of the policy, the Insurance Company cancelled the policy. Condition No. 5 of the policy reads as under: The Company may at any time by notice in writing cancel this policy. Provided that the Company shall in that case return to the insured the then last paid premium less a prorata part thereof for the portion of the current insurance period which shall have expired. Such notice

shall be deemed sufficiently given if posted, addressed to the insured at the time address last registered in the Company''s book, and shall be deemed to have been received by the insured at the time when the same would be delivered in the ordinary course of post.

A perusal of the above condition would show that the Insurance Company was within its right to cancel the policy in question at any time provided the written notices are sent to the policy -holders and the balance premium for the unexpired/uncovered policy period is returned to the insured. In the present case, as per condition No. 5 of the insurance policy, the policy in question was cancelled by the Insurance Company and intimation was sent to the policy -holder by registered letter. Cheque of Rs. 601 towards balance premium was also returned to the insured. Public notice of cancellation was also given through newspapers and it was enough notice to the Respondent regarding cancellation of the policy. Since the policy was cancelled during the life -time of the insured and due intimation was given to him along with cheque of balance premium, the Insurance Company was not liable to indemnify the complainants. Even the Hon''ble Supreme Court in the case of United India Insurance Co. v. Harcharan Chand Rai Chandan Lal,, IV (2004) CPJ 15 and NIC v. Laxmi Narain Dhut, : III (2007) CPJ 13 (SC) : II (2007) ACC 28 (SC) -IV (2007) SLT 102, has held that the policy is a contract between the parties and both the parties are bound by terms of contract.

For the reasons stated above, we do not find any merit in this Revision Petition and dismiss the same.

