courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 17/09/2026

(2004) 06 NCDRC CK 0088

In the National Consumer Disputes Redressal Commission

ZONAL MANAGER, LIC OF INDIA — APPELLANT

Vs

TMT. V. AMSAVENI — RESPONDENT

Date of Decision : 07-06-2004

Acts Referred:

Citation : 2004 3 CLT 588 : 2004 3 CPR 628 : 2004 4 CPJ 279

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Appeal allowed

Judgement

1. WE are of the view that this appeal has to be accepted reversing the judgment of the lower Forum. A claim has been made by the complainant on the death of her husband. The death took place on 16.4.1996 at Mettupatti. The husband of the complainant Venkatachalam had taken a policy with the opposite party on 28.4.1994 for Rs. 25,000/-. Therefore, on the death of her husband, the claim was made which was repudiated by the opposite party on the ground that there was suppression of material particulars and that the deceased had suffered from Cancer for which he was taking treatment from Cancer Institute, Adyar, Chennai. This fact was not disclosed when he proposed the policy, and as there was suppression of fact, they are not bound to accept the claim and hence the repudiation was proper. The lower Forum did not accept the contention of the opposite party and accepted the complainant''s case and passed an award. Therefore, the opposite party is before us on appeal.

2. FROM the records produced we find that this is a clear case of suppression of material facts. Even at the earliest point of time, vide their letter dated 21.3.1995 the opposite party have taken the specific stand that the deceased had suppressed material facts regarding his health viz., that he took treatment at the Cancer Institute, Adyar and that he did not choose to disclose this fact in his proposal and thus there was a wilful suppression of facts and false representation and, therefore, the opposite party were justified in repudiating the claim. In spite of their stand, the complainant has not chosen to make any allegation in the complaint either disputing the version or setting up their own case as to what

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/zonal-manager-lic-of-india-appellant…

had happened. According to the complainant, her husband died of jaundice with which he suffered and in this regard she has produced a certificate which has been marked as Ex. A-3. It is a certificate issued by one Dr. Krishnanaveni, MD, Assistant Surgeon, Government Hospital, Kovilpatti. It is not issued in the letterhead nor does it bear any seal excepting the rubber stamp of the Doctor. This is dated 1.8.1996 whereas the death was on 16.4.1996. Therefore, this document cannot be relied upon much less to hold that the deceased died of acute obstructive jaundice. The opposite party have produced a Xerox copy of the case sheet from the Adyar Cancer Institute. By their letter dated 30.1.1997, the Cancer Institute, Adyar, have mentioned that they have received a sum of Rs. 1,000/- by way of demand draft and that they are enclosing their official receipt therefor and are producing the copy of the discharge summary regarding the patient S. Venkatachalam son of Sangarappa Naicker, O. Mettupatti PO, Sattur Taluk. In the discharge summary enclosed therewith, we find that the complainant''s husband was taking treatment from 20.11.1990 to 19.4.1991, and was treated again on 22.4.1993 and on 1.8.1994. He again underwent treatment on 6.4.1996 and 16.4.1996. FROM a reading of the case sheet, we find that the complainant''s husband was admitted on 20.11.1990 and the diagnosis showed that he was suffering from Non Hodgkin''s Lymphoma Stage IVB (Low Grade) and he was treated with Chemotherapy, CHOP (Cyclophosphomide, Vincristine, Adriamycin, Prednisolone) and he had also cancer of bone marrow of low grade. He was treated with Chlorambucil (Leukeran) and he was kept under observation. He had progression of disease in the form of universal lymphadenopathy and hepatosplenomegaly. It further states that the patient continued to have progressive disease with severe anaemia and the patient expired on 16.4.1996 due to disease. This is certificate issued by a responsible and premier institution in our country. It cannot be lightly treated or brushed aside as done by the Lower Forum. Thus, the records to establish that the complainant''s husband was suffering from cancer from the year 1990 and suppressing the same he had taken the medical policy assuring insurability and answering the questions in the negative. Therefore, in such circumstances, we find that the contract of insurance being one firmly placed upon good faith, in this case, there has been wilful suppression of material facts which definitely would corrode the entire edifice of contract of insurance and render it nugatory. Hence, we have no hesitation in holding that the repudiation was justified and, therefore, the order passed by the lower Forum has to be reversed. In the result, this appeal is allowed, but without costs. The order passed by the lower Forum will stand set aside and the complaint will stand dismissed but without costs. Appeal allowed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/zonal-manager-lic-of-india-appellant…