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A. Babu Vs. the Branch Manager United India Insurance Co. Ltd., and Another

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC Chennai

Decided On : Jan-30-2012

Judge : Honourable Thiru Justice M. Thanikachalam President, Thiru a.K. Annamalai, M.a., M.L., M.Phil., Member (Judicial) &Amp; Thiru S. Sambandam, Member

Appeal No. : F.A.NO.534 of 2011 (Against order in C.C.NO.391/2009 on the file of the DCDRF, Chennai (South)

Appellant : A. Babu

Respondent : The Branch Manager United India Insurance Co. Ltd., and Another

Judgement :

(The Appellant as Complainant filed a complaint before the District Forum against the opposite parties, praying for a direction to the opposite parties to pay a sum of Rs.21582/- being the cost of medical bill, alogwith compensation of Rs.1 lakh. The District Forum dismissed the complaint. Against the said order, this appeal is preferred praying to set aside the order of the District Forum dt.30.12.2010 in CC.No.391/2009.

This petition coming before us for hearing finally on 19.01.2012. Upon hearing the arguments of the counsel on both sides, perusing the material papers on record, lower court records, as well as the order passed by the District Forum, this commission made the following order)

M. THANIKACHALAM J, PRESIDENT 1. The complainant is the appellant.

2. The complainant/ appellant, being the beneficiary under a health insurance policy, covering the period 12.2.2008 to 11.2.2009, had taken treatment, for which he incurred an expenses of Rs.41,582/-, for which claim was made, the opposite parties have paid only a sum of Rs.20000/-, denying the balance of Rs.21,582/-, which should be construed as deficiency in service, has filed a case for the recovery of the said amount, with compensation of Rs.1 lakh.3. The opposite party, not questioning the policy, under which right is claimed, resisted the case, contending that the consumer complaint is filed, under misconception as if he is entitled to full sum assured, irrespective of the actual expenses incurred, and limitation, that under the terms and conditions of the policy, for the disease, for which he had taken treatment, the limit is restricted to 15% of the sum assured, or maximum of Rs.30000/-, and accordingly amount paid, which cannot be termed as deficiency in service, praying to reject the claim, questioning the other averments also.4. The District Forum, recording a peculiar finding, that the complaint relates to the claim of balance of medical expenses incurred, for which he ought to have filed a civil suit, and the non-payment of the amount by the insurance company, will not come within the meaning of deficiency in service , thereby dismissed the case in entirerity as per order dt.30.12.2010.

5. As evidenced by Ex.A1, individual health insurance policy taken for the family members, and the sum assured for this complainant, by name Babu is Rs.50000/-. As proved by the production of the discharge summary, the complainant had taken treatment for obstructed para umbilical hernia, as inpatient in Billroth Hospital between 9.12.2008 and 13.12.2008, for which as evidenced by the credit bill, he had incurred an expense of RS.37,404/-, though the complainant had claimed a sum of Rs.41,582/-, as if he was taxed by the hospital, for which we do not have any materials, except another document advance receipt for Rs.16,582/-, probably

which should include the net amount, available in the credit bill also. Thus, on the basis of Ex.A1, a claim was lodged, and the opposite parties have settled the claim, by paying only a sum of Rs.20000/-. For the balance, whether it is Rs.21,582/- or otherwise, a consumer complaint was filed unsuccessfully. 6. The non-settlement of the claim by the opposite party, if they have undertaken to pay the medical expenses, under the policy, to the entire extent, should be construed as deficiency in service, and we cannot say, since part of the amount was paid, for the balance, the policy holder-beneficiary, under the policy, should approach the civil court, which is the unfortunate finding of the District Forum. If the complainant is eligible to draw the amount, as claimed, only a portion was paid, that non-settlement of that portion also should be construed as deficiency in service, since the service rendered by he insurance company, is covered under the Consumer Protection Act. In this context, we have to see the terms and conditions of the policy, as well as nature of disease.7. It is the specific case of the complainant and it is also proved by the discharge summary, that the complainant was suffering from umbilical hernia, we can take it as hernia. Therefore, there is no doubt, to cure the hernia problem, he incurred medical expenses. This disease is also covered under the policy, and as seen from clause 1.2 (b) under the heading hospitalization benefit, hernia is included, and under the table/column, under the heading limits restricted to , it is said 15% of the SI or maximum Rs.30000/-, and nothing more. In this case, the sum assured was Rs.50000/- and 15% of that sum will be Rs.7500/-, but there is an alternative clause or Rs.30000/- maximum, under the policy, as rightly urged by the learned counsel for the appellant, which is one of the grounds raised in the memorandum of appeal also, for which there is no opposition from the otherside in this case. But the opposite party has paid only a sum of Rs.20000/-, and they have also not explained, under what circumstances, they have paid only Rs.20000/-, when the policy contemplates Rs.30000/- maximum, when the complainant had incurred more than Rs.30000/-. The District Forum, unfortunately failed to render proper service, not reading the documents properly, thereby compelling the complainant, to come before us, for the balance, though not for Rs.21,582/- atleast Rs.10000/-, he is entitled, and for the non-settlement of the claim , the complainant, is entitled to a compensation also, to some extent, which we are quantifying at Rs.5000/-. To the above said extent, the

appeal is to be allowed.8. In the result, the appeal is allowed, setting aside the order of the District Forum in CC.No.391/2009 dt.30.12.2010, and the complaint is allowed in part, directing the opposite parties, jointly and severally to pay the balance of RS.10000/-, with compensation of Rs.5000/-, totaling a sum of Rs.15000/-, with cost of Rs.1000/-, further directing the opposite parties to pay the above said sum, within two months, from the date of receipt of this order, failing which this amount, shall carry interest @12% p.a, making no order as to cost in this appeal alone.

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