

J. Selvi Vs. the Assistant Director (Rpli) and Another

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC
Chennai

Decided On : Oct-12-2011

Judge : Thiru a.K. Annamalai, M.a., M.L., M.Phil., Presiding Judicial Member
& Thiru S. Sambandam, B.SC., Member

Appeal No. : F.A.No. 344 of 2010 [Against order in C.C.No.142/2007 on the file of
the DCDRF, Madurai]

Appellant : J. Selvi

Respondent : The Assistant Director (Rpli) and Another

Judgement :

(The appeal coming before us for hearing finally on 13.09.2011, upon hearing the arguments of both sides and perused the documents, written submissions as well as the order of the District Forum, this Commission made the following order :-)

A.K.ANNAMALAI, PRESIDING JUDICIAL MEMBER

1. Unsuccessful complainant is the appellant.

2. Complainants husband took a RPLI Policy from 2nd opposite party on 21.1.06 for Rs.25,000/- for 17 years by paying the premium of Rs.128/- and the 2nd premium to be paid only after receiving the policy bond and pass book from the opposite parties and promised it would be sent within one month. The

complainants husband often contacted the 2nd opposite party in this regard, but the pass book and the bond was not given to the complainants husband who died subsequently in an accident on 23.4.06. The 1st opposite party sent the policy bond and the pass book through 2nd opposite party on 8.6.06 and the 2nd opposite party returned the same with an endorsement addressee expired. The 1st opposite party sent a letter through the 2nd opposite party to pay the premium amount of Rs.128/- alone to the complainant. Because of the delay in sending the policy bond and pass book the complainants husband was not in a position to pay his subsequent policy premium before his death and thereby there was deficiency in service by the opposite parties and after giving a legal notice the complaint was filed claiming the policy amount of Rs.25,000/- with interest at 18% and Rs.50,000/- as compensation and Rs.2,000/- as costs.

3. The opposite parties denied the allegations of the complainant and stated that the 1st opposite party sent to the policy acceptance memo and premium receipt book with instructions to remit the subsequent premium from June 2006 by registered post on 8.6.06. But the letter was refused as the policy proponent expired and as per the terms and conditions of the policy only after the acceptance of policy cover the risk will come in to effect as per rule 22 under note 11 of Post Office Insurance Fund and in this case as there was no such acceptance before the death of the policy holder even though the policy was accepted within 90 days from the date of medical examination on 9.3.06, there is no question of deficiency of service and thereby the complaint to be dismissed.

4. On the basis of both sides materials and after an enquiry the District Forum accepting the contentions of the opposite parties dismissed the complaint by stating that there is no deficiency of service can be attributed to the opposite parties.

5. Aggrieved by the order of the District Forum the appellant/complainant has come forward with this appeal and the learned counsel for the appellant contended it is the opposite parties delayed act in accepting the proposal and sending the policy bond the complainants husband who died after paying the 1st premium regarding the insurance was not in a position to pay 2nd premium and thereby

there was deficiency of service and since the 1st premium was paid and subsequently proposal was accepted though before reaching to the hands of the proposal who died suddenly due to accident, there must be some compensation to be made and for which he relied upon certain rulings regarding the exgratia payment etc., reported in 2002 (3) CPJ 117(NC) in which it is stated as follows :-

Consumer Protection Act, 1986 - Section 21(b) - Jurisdiction - Ex-gratia Payment under welfare scheme of Government refused - Complaint decreed by Forum, set aside in appeal - Licence fee paid by deceased amount to consideration - Petitioners consumers - Guidelines on the subject pro consumer/beneficiary - O.P. liable for payment with interest - Order of Forum restored.

And LIC Manual relating to the Ex-gratia settlement of death claims in which it is stated as follows :- Ex-gratia settlement of Death Claims are not a right claim but on grounds of humanity presently LIC is giving such claim amount for the policies which are not in force but

If death occurred after the expiry of grace period of premium due date then Full

Sum Assured along with the bonus will be payable as Ex-gratia settlement.

If Death occurred after 3 months but less than 6 months after the expiry of first unpaid premium date half of the Sum Assured without bonus will be paid as Ex-gratia

If the death occurred between 6 months and one year from the due date of the first unpaid premium date, claim may be considered to the extent of the proportionate notional paid-up value on the basis of actual premium paid.

6. The learned counsel for the opposite parties contended even though they are anxious to provide some relief to the complainant since there is no such rule in RPLI like ex-gratia payment available in LIC the complaint in any way not to be allowed. But the learned counsel for the appellant subsequently relied upon another judgment decided relating to the Revision Petition No.820/2007 before the Honble National Consumer Disputes Redressal Commission, New Delhi in the case of **Sri.N.Venkateswalu Vs. The Branch Post Master, Rytunagar Branch,**

Kurnool District, A.P. and Two Others address in which a similar case of our nature was decided relating to the same type of RPLI premium and in which case since the original receipt of the 1st premium paid was not submitted by the proposer who died subsequently due to accident the claim was repudiated and against the same when the matter came by way of appeal after the order passed by the State Commission, Andrapradesh in the Revision Petition the Honble National Commission held in para 10 as follows :- Mr.Sewa Ram has further argued that the proposer paid only one premium for the policy for which monthly premiums had to be paid. This is an unacceptable contention for the simple reason that Anjaneyalu was never advised to do so, even orally. On the other hand, as is the admitted position, Anjaneyalu repeatedly enquired about the insurance and receipt of the policy document. This would show that the proposer assumed and for good reasons that his proposal had been accepted and there was only some unexplained official delay in sending him the policy document. The important point is that the Postal Authorities accepted the premium but did not inform the proposer about either rejection or acceptance of the proposal for over one and a half years, till the death of the proposer. The deficiency in service, is therefore, writ large in the conduct of the higher offices of the Department of Posts.

7. In view of the latest finding of the National Commission in this regard as above we are of the view that in our case also that the proposer assumed and for good reasons that the proposal has been accepted and there was only some unexplained official delay in sending him the policy document by proving that the postal authorities accepted the premium but did not inform the proposer about either rejection or acceptance of the proposal for a long time till the death of the proposer and only nearly after 1 months after the death on 8.6.06 alone the letter was sent containing the details of acceptance of proposal and payment of future premiums as contended by opposite parties which was returned as the proposer expired. In those circumstances we are of the view that in view of the judgment by the Honble National Consumer Disputes Redressal Commission, New Delhi in R.P.No.820/2007 dated 19.8.2011 the complainant is entitled for the entire policy amount of Rs.25,000/- as nominee or the legal heir of the proposer from the opposite parties and thereby this appeal deserves to be allowed.

8. In the result, the appeal is allowed by setting aside the order of the District Forum, Madurai in C.C.No.142/2007 dated 12.05.2010. (a) The opposite parties are directed to pay a sum of Rs.25,000/- towards the policy amount to the complainant as the beneficiary/legal heir of proposer late V.M.Jayapandian without any interest (b) to pay a sum of Rs.1,000/- towards costs to the complainant (c) No order as to costs in this appeal and (d) The opposite parties shall comply the direction within two months from the date of this order.

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