

V. Ragini Vs. the Senior Divisional Manager, Lic of India, Divisional Office, Pattom, Thiruvananthapuram and Others

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC Thiruvananthapuram

Decided On : May-25-2010

Judge : The Honourable Shri. M.V. Viswanathan Judicial Member

Appeal No. : First Appeal No. 654/2002 (Arisen out of order dated in Case No. of District Thiruvananthapuram)

Appellant : V. Ragini

Respondent : The Senior Divisional Manager, Lic of India, Divisional Office, Pattom, Thiruvananthapuram and Others

Judgement :

SHRI. M.V. VISWANATHAN JUDICIAL MEMBER

The above appeal is preferred from the order dated 06-09-2002 passed by CDRF, Thiruvananthapuram in OP No. 416/2000. The compliant therein was filed by the appellant herein as complainant against the respondents/opposite parties alleging deficiency of service on the part of the opposite parties. It was alleged that the repudiation of the insurance claim put forward by the complainant as nominee of the life assured would amount to deficiency of service and that the entrustment of the premium with the 3rd opposite party LIC Agent is to be treated as effective

payment of the premium for the insurance policy. Thus, the complaint in OP 416/2000 was filed to get the insurance amount with 12% interest and compensation of Rs. 5,000/- and cost of the proceedings.

2. The opposite parties 1 and 2 filed written version denying the alleged deficiency of service. They contended that the policy issued infavour of V. Radhakrishnan, the son of the complainant Ragini was lapsed for non-payment of the insurance premium which became due on 21-06-1998 and that the payment of premium on 05-08-1998 after the death of the insured on 03-08-1998 cannot be treated as payment of the premium for the said policy. It was further contended that the premium for the said policy was not paid within the grace period and that the payment of premium effected after the death of the insured would not make the complainant entitled to get the insurance amount. Thus, the opposite parties 1 and 2 justified their action in repudiating the insurance claim.

3. 3rd opposite party, the LIC agent filed written version stating that no amount was entrusted with her for remitting the insurance premium and that LIC has not authorized the 3rd opposite party to collect premium for the policy. Thus, the 3rd opposite party denied her liability to pay the insurance amount under the said insurance policy.

4. Before the Forum below Ext.P1 to P9 documents were marked on the side of the complainant. No oral evidence was adduced from the side of the complainant. The 3rd opposite party was examined as DW1 and witness on the side of the opposite parties 1 and 2 was examined as DW2. D1 and D2 documents were also marked on the side of the opposite parties. On an appreciation of the evidence on record, the Forum below absolved the opposite parties 1 and 2 from the liability to pay the insurance claim. But, the 3rd opposite party was made liable to pay the insured amount of Rs. 20,000/- with interest at 14.5% per annum with compensation of Rs. 2,000/- and costs of Rs. 1,000/- to the complainant. Dissatisfied with the impugned order passed by the Forum below in OP 416/2000, the present appeal is filed by the complainant therein.

5. We heard the Counsel for the appellant and respondents 1 to 3. The learned Counsel for the appellant/complainant submitted his arguments based on the

grounds urged in the memorandum of the present appeal. He relied on the decision rendered by the Honble National Commission in Life Insurance Corporation of India and Another Vs Gowramma reported in III (2009) CPJ 25(NC) and submitted that the respondent LIC had not given any intimation about the alleged lapse of the policy for non-payment of the insurance premium and so the contention of the opposite party LIC of India that the policy was lapsed cannot be upheld. Thus, the appellant/complainant prayed for modifying the impugned order passed by the Forum below thereby to fasten the liability on respondents 1 and 2 (opposite parties 1 and 2). On the other hand, the learned Counsel for the respondents 1 and 2 much relied on the decision rendered by the Honble Supreme Court in Harshad J. Shah and Another Vs. LIC of India and others reported in AIR 1997 SC 2459 and argued for the position that there was specific provision prohibiting the agents from collecting money on behalf of LIC of India and that the payment of premium to the agent of the LIC will not bind the LIC of India. Thus, the respondents 1 and 2 supported the impugned order passed by the Forum below. The learned Counsel for the 3rd respondent/3rd opposite party argued for the position that there was no entrustment of the premium with the 3rd opposite party LIC Agent and that the 3rd respondent/3rd opposite party may not be made liable to pay the insured amount to the complainant.

6. The appellant/complainant is the mother and nominee of the life assured V.Radhakrishnan. Admittedly the life assured Radhakrishnan was a policyholder of the life insurance policy issued by the opposite party LIC of India. The assured amount was Rs. 20,000/-. There is no dispute regarding the life insurance policy issued by the opposite party LIC of India in favour of the life assured Radhakrishnan. It is also an admitted fact that the said policy was taken through the 3rd opposite party LIC agent. The premium for the said life insurance policy was due on 21-06-1998 and that for effecting payment of the premium there was grace period of one month. Thus, the life assured had time to pay the premium on or before 21-07-1998. But the life assured failed to remit the premium for the policy. So, the policy has become lapsed due to non-payment of the premium. Admittedly, the premium for the said policy was paid only on 05-08-1998. The life assured died on the midnight of 03-08-1998. It can be seen that the premium for the policy was paid after the death of the life assured. Ineffect the policy was not

alive on the date of death of the life Assured. Thus, the respondents 1 and 2 (LIC of India) are perfectly justified in repudiating the insurance claim.

7. The appellant/complainant has got a case that the premium for the said policy was entrusted with the 3rd opposite party, the agent of the LIC even prior to 21-06-1998 and that the 3rd opposite party failed to remit the premium within the stipulated time. It is also the case of the appellant/complainant that payment of the premium with the agent of the LIC is sufficiency enough to treat the payment of premium for the policy. The complainant has also got a case that the LIC of India is answerable for the negligence of their agent, the 3rd opposite party and that LIC of India is liable to pay the insurance amount due to the complainant being the mother and nominee of the life Assured. It is to be noted that LIC of India has issued a regulation called LIC of India (Agents) Regulations, 1972. The aforesaid Regulations were framed in exercise of the powers vested in LIC of India u/s 49 of the Life Insurance Corporation Act, 1956. Regulation 4 of the said Regulations would make it clear that the agents of LIC are not authorized to collect any monies or to accept any risk for or on behalf of the Corporation or to bind the corporation in any matter whatsoever. It is also to be noted that the said Regulations became Life Insurance Corporation (Agents) Rules with effect from January 31st, 1981. Thus, the aforesaid Regulations and the Rules have the force of law. The acceptance of the premium by the 3rd opposite party will not in any way bind the LIC of India. The Forum below has rightly held that the opposite parties 1 and 2 (LIC of India) and not liable to pay the insurance amount to the complainant.

8. The learned Counsel for the appellant much relied on the decision rendered by the Honble National Commission in LIC of India Vs Gowramma and argued for the position that no intimation was given by the LIC regarding the lapsed condition of the policy. It is to be noted that issuance of notice informing the lapsed condition of the policy is stipulated by virtue of the provision contained in Section 50 of Insurance Act. It is as follows: Notice of options available to the assured on the lapsing of a policy insurer shall, before the expiry of 3 months from the date on which the premiums in respect of policy of life insured were payable but not paid, give notice to the policy holder informing him of the options available to him unless these are set forth in the policy. The aforesaid provisions of Section 50 of the

Insurance Act, 1938 would make it clear that the said notice informing the lapsing of policy need be given only if the details are not set forth in the policy. In other words, the insurer is only bound to give notice to the policyholder informing him about the options available to him unless these are set forth in the policy. But as far as the policy issued to the life assured Radhakrishnan is concerned, the details of the policy are set forth in the policy itself. So, the failure on the part of the opposite party LIC of India in giving the notice regarding lapsing of the policy cannot be taken as a ground to hold that the policy was not lapsed for non-payment of the premium within the stipulated period or grace period. Thus, in all respects Respondents 1 and 2 cannot be made liable to pay the insurance amount to the appellant/complainant as the policy was not alive on the date of death of the life Assured. The impugned order passed by the Forum below is to be confirmed. It is also to be noted that the 3rd opposite party in OP No. 416/2000 has not filed any appeal challenging the order passed by the Forum below fastening liability on the 3rd opposite party. So, the request of the 3rd respondent for absolving her from the liability to pay the insurance amount with compensation and costs cannot be allowed.

In the result, the appeal is dismissed. The impugned order passed by the Forum below in OP No. 416/2000 is confirmed. As far the present appeal is concerned, the parties are directed to suffer their respective costs.

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