

L.i.C. and Another Vs. Bachhi Devi

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Court : Bihar State Consumer Disputes Redressal Commission SCDRC Patna

Decided On : May-05-2004

Judge : D.P.S. Choudhary (Retd), President & the Honourable Dr. Asma Ahmad, Member

Appeal No. : Appeal No. 335 of 1997

Appellant : L.i.C. and Another

Respondent : Bachhi Devi

Judgement :

D.P.S. Choudhary, President:

1. O.P.-L.I.C. is the appellant which has preferred the appeal against the order dated 10.7.1997 passed by District Forum, Gaya in Complaint Case No. 190/1993 whereby and whereunder the District Forum has allowed the complainants claim and directed the L.I.C. to pay a sum of Rs. 20,000/- together with interest @ 13% per annum from the date of institution of the case (23.9.1993) till the date of payment and further ordered to pay Rs. 1,000/- as compensation and Rs. 500/- as litigation cost.

2. The brief fact of the case is that policy holder late Mohan Prasad Singh died on 8.1.1972 leaving behind the complainant his wife and nominee of the policy. He had a policy dated 20.12.1967 for Rs. 20,000/- only for which the premium were paid regularly. After his death on 8.1.1972 she sent several letters and reminders

to the L.I.C. for the amount of policy but she was not paid any amount. The last was dated 30.8.1993. Thereafter she filed the case before the District Forum. The complainant also filed a photo copy of the letter sent to her by the Divisional Manager, L.I.C. dated 1.7.1992 informing her about receiving of the claim and she was asked to furnish hospital death certificate in the Forum of B, E and A enclosed with the letter. She complied this direction of the L.I.C. and sent the filled up forms and thereafter also sent several letters making request for the payment of the L.I.C. policy but to no effect.

3. In pursuance of the notice the L.I.C. appeared and its case was that policy holder died on 8.1.1972 and after due inquiry it was found that policy holder deliberately suppressed the material fact regarding his health and on this ground the claim was repudiated and a registered letter dated 6.8.1976 was sent to the complainant in this regard. The complaint was time-barred without any proper explanation. The O.P. alleged that letter dated 1.7.1992 said to be issued by the Corporation office, Patna is false and fabricated and after due inquiry it was found that letter was issued by the Divisional Office, Patna on 1.7.1972 and not on 1.7.1992. This forgery has been made in the letter in order to save the period of limitation in filing the complaint. Therefore, the repudiation made by the L.I.C. in the year 1976 itself was a valid one and it does not amount to deficiency on its part nor the complainant is entitled to get any amount of the policy because material fact with regard to the health was suppressed by the policyholder.

4. The written argument submitted on behalf of the complainant is that L.I.C. has merely asserted in the written statement that claim was repudiated in the year 1976, which is false, and no copy of the letter has been produced on behalf of the L.I.C. in its support. The complainant has denied receipt of any such letter. No affidavit to this effect has been filed by the L.I.C. Nor any document was filed by the L.I.C. before the District Forum to show that life assured has suppressed any fact with regard to his health by filling up the proposal form. It is mere allegation of the L.I.C. without any proof, which should not be accepted. The L.I.C. has alleged that letter produced by the complainant dated 1.7.1992 is forged and fabricated but failed to prove this allegation. There is no evidence on record to show that Divisional Office was shifted from Exhibition Road to Frazer Road office in 1992

itself. It was not possible for the poor complainant to obtain the letterhead of the L.I.C. and fabricate the letter as alleged. Even after shifting the office from Exhibition Road to Frazer Road it is possible that old letter pads were used by the office of the L.I.C. Therefore, the contention of the L.I.C. that complaint was barred by limitation has not been proved by any evidence led by the L.I.C. The limitation shall be counted from 1.7.1992 when the complainant received this letter from the L.I.C. It was also argued that for the first time the period of limitation was incorporated in the amendment of the C.P. Act in the year 1993 with the addition of Section 24A which provides two years for filing the complaint from the date of cause of action. Before that the limitation period was governed by the Limitation Act, 1963. The complaint was filed on 22.7.1993 after the receipt of the letter dated 1.7.1992 issued by the L.I.C. The complainant has been writing to the L.I.C. regularly after the death of her husband in the year 1972 and on receipt of letter dated 1.7.1992 the complaint was filed. It is also the case of the complainant-respondent that at the time of insurance the doctor of the Corporation examined the policy holder and the doctor found no ailment, as such, nothing was mentioned in the policy form. The policy holder was not suffering from any serious ailment nor he was ever hospitalized or remained absent from duty more than a week. Therefore, none of the question of the proposal form was wrongly filled up. The L.I.C. is trying to deprive the wife of the deceased of her legitimate claim of the policy.

5. The main contention of the appellant before us is that complaint was time-barred and there was suppression of material fact with regard to the health by the life assured at the time of filing up the proposal form. The District Forum has considered the facts in detail in the impugned order.

6. We have perused the order of the District Forum and carefully examined the materials on record and considered the submissions of the parties. In the impugned order it is mentioned that complainant has sworn affidavit and stated on oath and held that L.I.C. failed to prove that letter dated 1.7.1992 is forged and fabricated. The letter is dated 1st July, 1972. The District Forum held that under the Evidence Act it was the duty of the L.I.C. to prove this allegation by adducing cogent evidence but failed and in view of the affidavit and oath of the complainant

there was no reason to disbelieve this contention of the complainant that the letter of the L.I.C. was dated 1.7.1992. On this ground the District Forum held that complaint is not barred by limitation and we have no reason to disagree with this finding of the District Forum. The District Forum has further held that life assured had a policy of Rs. 20,000/- since 22.12.1967 and he died on 8.1.1972. These facts are not in dispute and the amount of policy has not been paid to the complainant who is his wife till date. The District Forum further held that any evidence has not proved repudiation of the claim on the ground that he suppressed the material fact with regard to his health. There is only allegation on behalf of the L.I.C. without any proof and accordingly allowed the claim of the complainant. We are also of the view that L.I.C. has miserably failed to prove that life assured was suffering from any major ailment at the time of filling up the proposal form in the year 1967 and has wilfully suppressed the facts with regard to any ailment which he alleged to have been suppressed. The allegation of the L.I.C. is without any material on record. In the fact and circumstances, we do not find any reason to discharge with the finding arrived at by the District Forum or to accept the contention raised on behalf of the L.I.C.

7. In the result, we do not find any merit in this appeal, which is accordingly dismissed, and the L.I.C. is directed to pay Rs. 20,000/- (the amount of the policy) with interest. The District Forum has allowed interest @ 13% per annum which in our view is on higher side and it is reduced to 10% per annum from the date of institution of the case till the date of the payment. Since the interest has been allowed on the amount of policy we are of the view that award of compensation of Rs. 1,000/- will amount to double punishment hence this part of the order is set aside. The District Forum has allowed a litigation cost of Rs. 500/-, which appears to be justified, and this part of the order is confirmed.

8. In the result, the appeal is dismissed with the above modification indicated above. The L.I.C. is directed to pay the amount of Rs. 20,000/- with 10% interest thereupon from the date of filing of the complaint case till the date of payment within three months from the date of this order. However, there shall be no order as to cost in the appeal.

Appeal dismissed.

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