

RESERVED

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW

APPEAL NO. 608 OF 2016

(Against the judgment/order dated 20-02-2016 in Complaint  
Case No. 122/2008 of the District Consumer Forum, Etawah)

Life Insurance Corporation of India  
ShastriChauraha, Station Road, Etawah  
Through Branch Manager

...Appellant

V/s

Sukhvir Singh  
S/o Sri Bhagwan Singh  
R/o Adalpur House  
Vaya Raod Sadabad  
District Hathras

...Respondent

BEFORE:

HON'BLE MR. JUSTICE AKHTAR HUSAIN KHAN, PRESIDENT  
HON'BLE MRS. BAL KUMARI, MEMBER

For the Appellant : Ms.Rehana Khan, Advocate.  
For the Respondent : Sri O P Duvel, Advocate.

Dated : 10-08-2016

JUDGMENT

PER MR. JUSTICE AKHTAR HUSAIN KHAN, PRESIDENT

This is an appeal filed under Section-15 of the Consumer Protection Act 1986 against judgment and order dated 20-02-2016 passed by District Consumer Forum, Etawah in Complaint No. 122/2008 Sukhvir Singh V/s Life Insurance Corporation of India whereby District Consumer Forum has allowed said complaint against appellant/opposite party for recovery of Rs.3,14,000/- with interest @ 7% per annum from the date of complaint till actual payment.

Ms. Rehana Khan, learned Counsel for the appellant appeared.

Sri O P Duvel, learned Counsel for the respondent appeared.

We have heard learned Counsel for the parties.

We have perused impugned judgment and order as well as written arguments filed on behalf of respondent.



10/8/16

We have gone through the records of the case carefully.

It has been contended by learned Counsel for the appellant that proposal form has not been signed by insured Shakuntala Devi. The report of handwriting expert shows that it has been signed by claimant himself, as such appellant has rightly repudiated the claim. Ombudsman has also rejected claim of complainant. The impugned judgment and order is against law and evidence.

It has been further contended by learned Counsel for appellant that the question as to whether the signature of insured Shakuntala Devi on the proposal form of policy is forged or it has been signed by Shakuntala Devi is a complex question of fact which may be decided by Civil Court only. The District Consumer Forum has no jurisdiction to decide such complex issue of fact.

Learned Counsel for the appellant has placed reliance upon following judicial pronouncements:-

01. Oriental Insurance Company Limited V/s Munimahesh Patel – IV(2006) CPJ-1 (SC).
02. Babu Singh V/s Life Insurance Corporation of India – II(2008) CPJ 152 (NC).

Learned Counsel for the respondent has opposed appeal. It has been contended by learned Counsel for the respondent that impugned judgment and order is in accordance with law and evidence.

It has been further contended by learned Counsel for the respondent that the proposal form has been signed by insured Shakuntala Devi and appellant has not dared to get comparison of signature of insured Shakuntala Devi on proposal form with her admitted signature, whereas appellant has admitted signatures of insured Shakuntala Devi on other policies issued by appellant himself.

It is contended by learned Counsel for the respondent that expert has not compared the disputed signature of proposal form with admitted signature of insured Shakuntala Devi. As such expert report is not sufficient to disbelieve signature of insured Shakuntala Devi on proposal form in question.

*Proposed*

*A. W. K.*

We have considered the submissions made by learned Counsel for the parties.

The appellant Insurance Company has repudiated the insurance claim on the sole ground that the proposal form has not been signed by insured. Signature of insured on proposal form is forged and it has been made by complainant/respondent himself. The above finding recorded by Insurance Company in repudiation letter is based on report of handwriting expert which is annexure-6 of memo of appeal.

In impugned judgment and order the District Consumer Forum has considered expert report and has held that the disputed signature of insured Shakuntala Devi on proposal form has not been compared with admitted signature of Shakuntala Devi. In impugned judgment and order, the District Consumer Forum has further observed that from where the Insurance Company has taken admitted signature of Shakuntala Devi has not been mentioned. The District Consumer Forum has held that the expert report has no value and is not admissible in evidence.

Perusal of expert report reveals that specimen writing of word Shakuntal Devi has been taken from claim form submitted by complainant/respondent after death of Shakuntala Devi and the expert has conducted examination of said two writings to assess as to whether Shakuntala Devi written on claim form and signature of Shakuntala Devi made on proposal form are in the handwriting of same person.

There is nothing on record to show that the insured Shukantala Devi had other policies of appellant Insurance Company which are not disputed. But complainant/respondent has produced several documents before District Consumer Forum in which admitted signatures of Shakuntala Devi were available but the Insurance Company did not dare to get compared disputed signature of Shakuntala Devi on proposal form with her admitted signatures. Photograph of disputed signature of Shakuntala Devi and specimen writing has not been taken in presence of respondent/complainant. Neither photographs of disputed signature and specimen writing; nor negative copy of said photographs have been produced before the District Consumer Forum alongwith expert report.

*Boydar*

*A. H. Khan*

Photocopy of proposal form annexed with memo of appeal shows that Umesh Singh Chauhan agent of L.I.C. has witnessed the signature of insured Shakuntala Devi. No affidavit of Umesh Singh Chauhan has been filed to challenge the signature of Shakuntala Devi.

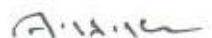
In view of discussions made above, considering all facts and circumstances of the case, we are of the view that District Consumer Forum has rightly not placed reliance on expert report and has held it to be inadmissible.

In the case of Babu Singh V/s Life Insurance Corporation of India Limited (supra) the facts of the case were that the fraud was played by some miscreants by obtaining the policy fraudulently. On 28-03-1995, collection report No. 35805241 for Rs.3,913/- was originally issued by the LIC office in the name of Pooranchand Agarwal. This receipt was subsequently altered in the name of Vasudeo Prasad Gupta who obtained the insurance proposal of the deceased. Out of Rs.3,913/-, an amount of Rs.1,707 was adjusted towards policy No. 200868491 for the insurance of Ramendra Singh Jaudon and the balance amount was refunded to Vasudeo Prasad Gupta. The agent Vasudeo Prasad Gupta was the person who verified the age of Ramendra Singh Jaudon. Further handwriting expert report disclosed that the signatures on the proposal form were not of insured Ramendra Singh Jaudon but they were in handwring of Vasudeo Prasad Gupta.

In the above case of Babu Singh V/s Life Insurance Corporation of India the Hon'ble National Commission placing reliance on judgment of Hon'ble Apex Court rendered in the case of Oriental Insurance Company Limited V/s Munimahesh Patel (supra) has held as follows:-

"Since there would be reasonable basis to suspect fraud on the part of the LIC, it is not possible to say that there would be any reason to hold that the opposite party/respondent were deficient in rendering service. In such circumstances, we feel it appropriate that in view of the dispute about the genuineness of the signatures of the deceased on the proposal form for obtaining policy, eligibility of the deceased insured to take the policy under Table Plan 88 as well as close proximity of date of proposal 28-30.3.1995 and death on 2.4.1995 in this matter in view of the complex factual position





which has arisen, the matter should be left to be decided by an appropriate Forum like Civil Court.”

In the case of Oriental Insurance Company Limited V/s Munimahesh Patel the Hon’ble Apex Court has observed as follows:-

“11. Proceedings before the Commission are essentially summary in nature and adjudication of issues which involve disputed factual questions should not be adjudicated. It is to be noted that Commission accepted that insured was not a teacher. Complainant raised dispute about genuineness of the documents (i.e. proposal forms) produced by the appellant.

12. The Commission having accepted that there was wrong declaration of the nature of occupation of the person insured should not have granted the relief in the manner done.

13. The nature of the proceedings before the Commission as noted above, are essentially in summary nature. The factual position was required to be established by documents. Commission was required to examine whether in view of the disputed facts it would exercise the jurisdiction. The State Commission was right in its view that the complex factual position requires that the matter should be examined by an appropriate Court of Law and not by the Commission.”

We have considered the proposition laid down by Hon’ble Apex Court as well as Hon’ble National Commission in above judicial pronouncements.

In paragraph 2 of complaint, complainant/respondent has specifically stated that Shakuntala Devi wife of complainant has taken policy through Umesh Singh Chauhan Agent of L.I.C. and has completed all formalities as instructed by said agent. Medical examination of Shakuntala Devi was also conducted by authorized doctor of L.I.C.

Paragraph 2 of complaint has not been specifically denied by appellant L.I.C. in written statement filed before District Consumer Forum. Appellant L.I.C. has made evasive denial of said paragraph 2 of complaint. Relevant paragraph of written statement of appellant L.I.C. is extracted below.

*Boradkar*

*A. U. U.*

“यह कि धारा-2 परिवाद जिस प्रकार अंकित है स्वीकार नहीं है।”

In view of above, after having gone through pleadings of parties, it is apparent that Shakuntala Devi wife of complainant has deposited premium of policy and obtained policy after necessary formalities and medical examination. There is nothing in written statement of appellant L.I.C. as well as on record to indicate that fraud has been committed in making necessary formalities or medical examination of insured. Agent Umesh Singh Chauhan has not filed affidavit to show any circumstance leading to element of fraud. Appellant L.I.C. has not stated that action has been taken against said agent for his collusion with insured. Sole basis of defence of appellant L.I.C. is expert report which has been rightly disbelieved by District Consumer Forum.

At this juncture, it is relevant to mention that comparison of disputed signature and specimen writing on claim form with naked eyes shows that both writings are different in style and manner of writing. Indisputably proposal form has been filled on 22-08-2005 whereas insured has died on 29-11-2005.

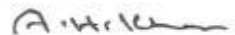
In view of discussions made above, it is apparent that evidence available is not sufficient to infer that signature of insured Shakuntala Devi on proposal form is forged and policy has been obtained by playing fraud.

After having gone through the whole facts and materials on record, we are of the view that there is no sufficient ground to hold that complaint has complex question of fact for determination. On the facts of the present case appellant Insurance Company cannot get any benefit of above judicial pronouncement. We find no sufficient ground to disturb finding recorded by District Consumer Forum.

Ombudsman award is not binding on claimant and for reasons mentioned above it cannot be accepted. Repudiation of claim without sufficient reason is tantamount to deficiency in service.

We are of the view that District Consumer Forum has rightly awarded Rs.3,00,000/- the insured amount to complainant.





:7:

The District Consumer Forum has awarded Rs.10,000/- for mental harassment and Rs.4,000/- for cost of the case. The District Consumer Forum has further awarded 7% interest on the whole amount awarded to complainant from the date of complaint till date of actual payment. Considering the interest awarded by District Consumer Forum we are of the view that Rs.10,000/- awarded by District Consumer Forum in the head of mental harassment should be quashed.

In view of above, appeal is allowed partially. The impugned judgment and order passed by the District Consumer Forum is modified and the appellants Insurance Company is directed to make payment of Rs.3,00,000/- to complainant/respondent with interest at the rate of seven percent per annum from the date of complaint to the date of actual payment. Appellants Insurance Company is further directed to pay Rs.4,000/- as cost of the case.

The amount deposited under Section-15 of the Consumer Protection Act 1986 in this appeal shall be remitted to District Consumer Forum for disposal in accordance with law.

Let copy of this order be made available to the parties within 15 days positively as per rules.

*A. H. Khan*  
(JUSTICE A H KHAN) 10/8/2016  
PRESIDENT

*Bonales*  
(SMT. BAL KUMARI)  
MEMBER

Pnt.