

RESERVED

State Consumer Disputes Redressal Commission
U.P., Lucknow.

Appeal No.629 of 2006

- 1- Life Insurance Corporation of India,
Branch office Civil Lines, Station Road,
Bareilly.
- 2- Divisional Manager,
Life Insurance Corporation of India,
Divisional office, Bareilly.
Both through the Manager Legal LIC,
Divisional Office, Lucknow.Appellants.

Versus

Smt. Parwati Devi Wd/o Late Shri Parmai Lal,
R/o Village Gunga, Pargana, Tehsil &
Distt. Bareilly.Respondent.

Present:-

- 1- Hon'ble Mr. Justice Sri Virendra Singh, President.
2- Hon'ble Sri A.K. Bose, Member.

Sri V.S. Bisaria, learned counsel for the Appellants.
Sri M.H. Khan & Sri K. Sharma, Ld. counsel for the
respondent.

Date 23.10.2013

Per Hon'ble Mr. Justice Virendra Singh, President.

JUDGMENT

Aggrieved by the Judgment and order dated 8.2.2006
passed by the Ld. DCDRF-II, Bareilly in complaint case
No.320 of 2003: Smt. Parwati Devi Vs. LIC & Anr.,
relating to deficiency in service in making payment of
claim policies by the LIC, the instant appeal has been filed



under Section 15 of the Consumer Protection Act, 1986 (Act No.68 of 1986) on the ground that that the aforesaid order is bad in the eye of law and, therefore, cannot be allowed to sustain. It has also been submitted that the impugned order passed by the Forum below is illegal, unjust, capricious, perverse and has been passed without proper application of mind.

We have heard the learned counsel for the appellants Sri V.S. Bisaria and the learned counsel for the respondent Sri M.H. Khan and Sri Kaushalendra Sharma and have gone through the records carefully.

In brief the fact of the case under appeal is that one Sri Parmai Lal resident of Village Gunga, Pargana, Tehsil & Distt. Bareilly had three life insurance polices in his name, the details of which are as under:

- 1- Policy No.221793683 Plan 14-22 for a sum assured Rs.1,00,000.00 with double accident benefit. The aforesaid policy bond was issued on 21.3.2002 and the quarterly premium was Rs.2,524.00 with risk commencing from 15.3.2002.
- 2- Policy No.221798378 Plan 133-27 for a sum assured Rs.50,000.00, half yearly premium of which was Rs.1,875.00 and the policy was effective from 28.4.2002.
- 3- Policy No.221798379 Plan 133-27 for a sum assured Rs.50,000.00, half yearly premium of which was Rs.1,875.00 and the policy was effective from 28.4.2002.

Under the last two policies, triple the amount insured



was to be paid in case of death of the insured. It is undisputed that the respondent (Claimant of 320 of 2003) Smt. Parwati Devi is legally wedded wife and nominee of the aforesaid three policies. From the perusal of the records, it transpires that the insured Parmai Lal expired on 12.8.2002 due to sudden illness. Consequently, his widow Smt. Parwati Devi filed claim petitions but all the three claims were repudiated on the grounds that the claimant had suppressed the facts regarding his illness in the proposal form and that he expired within four months 27 days of initiating the policies. Furthermore, it was also argued that the signature of the insured Parmai Lal available on the claim petitions differed with his signatures available elsewhere.

Aggrieved by the order of repudiation the respondent Smt. Parwati Devi filed the complaint case No.320 of 2003 before the Ld. DCDRF-II, Bareilly in which the following points/issues for determination were framed:-

- 1- Whether the insured Parmai Lal was suffering from ailments for more than a year prior to initiating the policies and whether he suppressed the material facts in the proposal forms ?
- 2- Whether the proposal forms do not contain the signature of the insured Parmai Lal ?
- 3- Whether the claimant is entitled to get the amount assured under the policies ?
- 4- Whether the claimant is entitled to receive compensation for deficiency in service? If so, how much ?



(4)

The Forum below on the basis of facts, circumstances and evidence available on record decided the first two issues in negative in favour of the claimant and against the Insurance Company. The third and fourth issues were decided in positive in favour of the claimant and, therefore, it directed the Insurance Company to pay a sum of Rs.4 lakhs (as covered under the three policies) within a period of one month from the date of the order. It also directed the Insurance Company to pay due Bonus on the Principal amount alongwith interest @6% from 19.11.2003 (i.e. when the claim petitions were repudiated) till the date of full and final payment alongwith a sum of Rs.5,000.00 as compensation. Aggrieved by the aforesaid judgment and order, the instant appeal has been filed.

We have given due consideration on the evidence available on record. While dealing with the Issue No.1, the Forum below held that there is no evidence on record to show that the insured Parmai Lal was suffering from lever or any other serious disease for at least one year prior to filing the proposals. The burden on proof was upon the Insurance Company to prove beyond all reasonable doubt that the insured suppressed material facts regarding his health while applying for the insurance but it failed to prove the same. No cogent documentary or oral evidence has been filed in support of the facts as narrated by the Insurance Company. The Forum below took all the facts and circumstances into consideration before arriving at the conclusion that the insured did not suppress any material fact regarding his health at the time of filing the proposal



forms. So far as the contention of the appellant is concerned for these facts that on an enquiry, it was found that the deceased was suffering from liver ailments but this fact was not disclosed in the proposal forms, and due to non cooperation of the respondent, it could not be known that in which hospital or with which doctor he ever consulted his ailment and special tests like blood sugar/cholesterol etc. were also performed for accepting the proposal and the Enquiry Officer has raised the doubt that instead of the proposer himself, some other person might have been produced before the doctor to get the good medical report, we are of this view that in the absence of any cogent evidence on such facts, the learned District Consumer Forum committed no error thereby finding that there was no suppression of material facts pertaining to disease of the deceased. Such type of averment made by the appellant before us is not acceptable. A hypothetical fact that some other person might have been produced before the doctor to get the good medical report is very much absurd plea on behalf of the appellant and it shows that the appellant seems adamant to repudiate the claim of a bonafide claimant, making the hypothetical blame of the disease. A person who is insured by the appellant is supposed to be taken to medical examination by the appellant. So such type of plea could not be accepted. More so the agent Angal Lal has deposed before the District Consumer Forum that the deceased was the signatory of the proposal forms. Therefore, any report of the signature expert has no force



where the direct evidence is on record. Further more, the expert report has been procured by the appellant during the period of pendency of the complaint of the complainant before the District Consumer Forum and without the consent or the specific order passed by the District Consumer Forum. Such type of report procured without intervention of the judicial process in existence and behind the back of the claimant, is not acceptable and which is rightly rejected by the District Consumer Forum. Since there is no record of any disease, therefore, these hypothetical pleas and contentions are not acceptable in which it is stated that the medical examination pertaining to blood report of the deceased might have been done of the person other than the deceased. Hence, we do not intend to interfere with the order passed by the District Consumer Forum.

The Forum below also discussed at length to hold that the proposal form contained the genuine signature of the insured. The learned counsel for the appellant failed to explain as to why a person who is applying for insurance coverage will put wrong signature. There is no dispute regarding identity of the person. On one hand, the Insurance Company takes a plea that the insured had suppressed material facts regarding his health at the time of filing the proposal form and on the other hand, it takes the defence that the proposal form which was duly submitted alongwith payment of premium contained disputed signature. Both these pleas are contradictory to each other and cannot be relied upon. Besides this, a



careful study of the report of Hand Writing Expert Sri Vishnu Kumar Sharma would reveal that his report is not based on any cogent reason and is superficial in nature. The Forum below was fully justified in holding that the claim forms do not bear the signatures of persons other than the insured. We do not find any reason to interfere with the aforesaid finding. The claim petitions were repudiated also because the insured died within 4 months and 27 days of opening the policy. Life and Death are not in the hands of individuals and people go for insurance in order to cover this uncertainty. Therefore, rejecting or repudiating the claim on this ground needs to be deprecated in the strongest terms. The Insurance Company certainly failed in its duty to make prompt payment of the sum assured under the policies and, therefore, it is a pure and simple case of deficiency in service. The Ld. Forum below took all the facts, evidence and circumstances into consideration in holding that the appellant Insurance Company committed a serious remiss and gross deficiency in service by repudiating a genuine claim on lame excuses. People do not go for life insurance and pay high premiums in order to open vista of litigations after death. It may also be observed here that the appellant has not disputed the fact that the respondent Smt. Parwati Devi is the legally wedded wife and nominee of the deceased. The Forum below, while disposing of the Issues No.3 and 4, has rightly held that the respondent Smt. Parwati Devi being nominee and legally wedded wife was entitled to receive the assured amount under the policies alongwith interest



(8)

and other consequential benefits. We are not inclined to interfere with the same. Consequently, the appeal, being meritless is liable to be dismissed and the judgment and order passed by the Forum below in complaint case No.320 of 2003 dated 8.2.2006 is liable to be confirmed.

ORDER

The appeal is dismissed with costs and the judgment and order dated 8.2.2006 passed by the Ld. DCDRF-II, Bareilly in complaint case No.320 of 2003 is confirmed.

Copy of this order be provided to the parties as per rules.


(Justice Virendra Singh)
President


(A.K. Bose)
Member