

(2004) 01 NCDRC CK 0072

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

SUKHBIR SINGH BAHL

APPELLANT

Vs

Life Insurance Corporation of
India

RESPONDENT

Date of Decision: Jan. 3, 2004

Citation: 2004 2 CPJ 408

Hon'ble Judges: Rumnita Mittal , Mahesh Chandra J.

Final Decision: Appeal dismissed

Judgement

1. THIS appeal is directed against the order of District Forum-IV, Nand Nagari, Delhi, dated 10.11.1997, passed in Complaint Case No. 734/1997 (Old No. 393/1995) entitled Shri Sukhbir Singh Bahl v. Life Insurance Corporation of India & Anr..

2. THE appellant had filed a complaint under Section 12 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act") before the District Forum on the ground that he had taken two policies from the respondent from its office at Jind, Haryana, bearing Nos. 76191660 and 76199661 in the year 1985. Initially the policies were taken for Rs. 1,00,000/- each, thereafter in the year 1986 the amount of policies was reduced to Rs. 50,000/- and accordingly the premium payable was also reduced by 50%. In the year 1989 the 5th instalment of premium became due but since the appellant had shifted from Jind to Delhi and had also requested for the transfer of policies to Delhi, the same was not paid. However, the appellant vide letters dated 14.1.1990 and 23.1.1990 addressed to the respondent's office at Jind enquired about the amount of premium due and payable, but no response was received from the Jind office of the respondent. THEREAFTER, the respondent vide letter dated

12.4.1990 was informed that the policies in question had been transferred to Delhi office at Vivek Vihar, Delhi/respondent No. 2 but the amount of premium payable was nowhere mentioned. THE respondent No. 2 vide letter dated 6.6.1990 demanded an amount of Rs. 117.10 p. and Rs. 130/- as interest on the premium on account of late payment of the premium which the appellant refused to pay on the ground that the delay in payment of the premium had not resulted on account of any default on his part. As such the appellant filed a suit for declaration in the Civil Court which was dismissed on technical ground vide order dated 27.10.1994. THEREAFTER the appellant filed a complaint before the District Forum with the prayer that the respondent be directed to refund the amount paid by the appellant as premium together with interest @ 24% p.a. as well as Rs. 5,500/- as cost of proceedings.

The respondents in their reply/written version filed before the District Forum raised the preliminary objection that the complaint was barred by limitation and also that the same was barred by principle of res judicata as the appellant had earlier filed a Civil Court on the same cause of action which had been dismissed vide orders dated 27.10.1994. On merits it was admitted that the complainant had taken the policies in question. It was, however, denied that there was any deficiency in service on the part of the respondents as the appellant had despite reminder dated 6.6.1990 failed to make payment of the premium and as such the policy having lapsed, the appellant was not entitled to the benefits of the policy. It was, therefore, prayed that the complaint, filed by the appellant, being false and vexatious was liable to be dismissed with cost.

The learned District Forum vide impugned order held that the complaint was barred by limitation and also that the same was not maintainable on merits and as such dismissed the complaint filed on behalf of the appellant.

3. AGGRIEVED by the aforesaid order the appellant has preferred the present appeal before the Commission.

We have carefully perused the documents/material placed on record as well as the Trial Court record which was summoned for the perusal of this Commission. The learned District Forum has dismissed the complaint, filed on behalf of the appellant, firstly on the ground that the same had been preferred beyond the period of limitation as the cause of action accrued to the appellant when the premium for the year 1989-90 in respect of the policies became due and payable. Further despite reminder sent by the respondents vide letter dated 6.6.1990 the appellant failed to pay the same and instead challenged the said demand before the Civil Court, Delhi

which was dismissed vide orders dated 27.10.1994. The appellant admittedly had not filed any application under Section 24-A of the Act for condonation of delay in filing the complaint before the District Forum. Furthermore, in order that delay in filing the complaint be condoned, it is imperative that the appellant explains each day's delay in filing the complaint. Even if the plea of the appellant in the present appeal is accepted that the time spent by him in pursuing the Civil Suit be excluded, even then the fact remains that the said Civil Suit was dismissed on 27.10.1994, whereas the complaint was filed before the District Forum only on 6.3.1995. Thus there is no reasonable explanation which could constitute "sufficient cause" for condonation of delay in filing the complaint before the District Forum. As such we do not find any infirmity in the finding of the learned District Forum that the complaint, filed by the appellant, was barred by limitation.

4. EVEN on merits the appellant has no case. It is an admitted fact that despite reminder the appellant did not pay the premium in question. EVEN if the appellant was disputing the amount of late fee/interest charged on delayed payment of premium, nothing precluded the appellant from making the payment without prejudice to his rights and contentions, so as to avail of the benefit of the policy in question. As regards the plea of the respondent for the refund of the amount of premium deposited is concerned, necessary directions have been passed by the learned District Forum vide impugned order and as such the present appeal, filed by the appellant, appears to be devoid of force as also being barred by limitation. Therefore, the same is liable to be dismissed and is dismissed accordingly with no order as to costs. The above mentioned appeal, filed by the appellant, stands disposed of in above terms. Appeal dismissed.