

(1993) 06 NCDRC CK 0029

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

YAGYA PAUL DUGGAL

APPELLANT

Vs

National Insurance
Co. Ltd.

RESPONDENT

Date of Decision: June 16, 1993

Citation: 1993 0 CPC 640 : 1993 2 CLT 412 : 1993 3 CPJ 1400 : 1993 3 CPR 34

Hon'ble Judges: S.S.Dewan , R.L.Gupta , Gurkanwal Kaur J.

Final Decision: Complaint dismissed

Judgement

1. THE complainant has filed this complaint under Section 12 read with Section 17(a)(i) of the Consumer Protection Act, 1986 (for short the "Act") against the opposite-party-National Insurance Company Ltd., Hoshiarpur (for short "the Insurance Company"), claiming Rs. 2,10,000/- as capital sum insured alongwith interest @ 24% p.a. from the date of the incident till payment as detailed in Para No. 9 of the complaint.

2. THE issue herein lies in a narrow compass and the relevant facts are not in dispute. THE complainant's son Shiv Kumar Duggal, aged about 32 years admittedly had insured himself with the Insurance Company under its Personal Accident Insurance Scheme on 24.5.1990 for a capital sum of Rs. 2 lacs alongwith cumulative bonus of Rs. 10,000/- and the said policy was valid upto 23.5.1991. It is stated that Shiv Kumar while working on a kerosene stove at his residence in Hadiabad, Phagwara on 14.12.1990, received burn injuries as his clothes accidentally caught fire and after getting him the necessary first aid from Phagwara, he was immediately removed to Christian Medical College, Ludhiana where he was

admitted as an indoor patient. Shiv Kumar, however, died in the Christian Medical College on 23.12.1990. THE case of the complainant is that since Shiv Kumar was fully conscious till his death, the Head Constable, Shri Jarnail Singh of Police Station Phagwara recorded his statement on 15.12.1990, wherein the deceased had admitted having sustained burn injuries accidentally while working on a kerosene stove. THE complainant intimated about the incident to the Insurance Company and filed his claim on 8.2.1991 being an assignee of his deceased son. According to the complainant, the Insurance Company instead of paying the insurance amount of Rs. 2,10,000/- to him under the Personal Accident Insurance Scheme started raising frivolous objections and consequently on 24.9.1992, his claim was rejected on the report submitted by the Investigators M/s. Strategic Security Consociates, that Shiv Kumar deceased had committed suicide. Having failed to receive any relief on making representations, the present complaint was preferred before this Commission on 16.12.1992.

On notice being issued, the Insurance Company has filed its version and has raised a preliminary objection that the claim of the complainant has already been repudiated after thorough investigation and consideration and there being no deficiency in service, the complaint is liable to be dismissed. It is stated that there is ample circumstantial evidence that shows that Shiv Kumar, deceased had committed suicide by immolating himself. On merits, the allegations of the complainant were stoutly controverted by the Insurance Company and what was highlighted is the fact that the alleged statement recorded by the Head Constable, Shri Jarnail Singh did not bear the signatures of the deceased himself and the alleged documents were forged and fabricated as it was found by the Investigating Agency of the Insurance Company that the signatures of the deceased on the Proposal Form as well as on the alleged statement of the deceased differed materially and the same were not of the one and the same person. It was averred that the detailed investigation report of the Investigator was received in the office of the Insurance Company which was based on the visit of the Investigator to the spot and recording of the statements of the witnesses. The Insurance Company struck to the stand that the deceased having committed suicide, the insured amount was not payable to the complainant.

The complainant rested himself content by filing the documents Annexures P-1 to P-4. The learned Counsel for the complainant had stated before us that these documents should be treated as evidence to be adduced on behalf of the complainant. The Insurance Company put on record the documents Annexures R-1 to R-16. On the request of the learned Counsel for the parties, their evidence was closed by the order of the Commission.

3. BE that as it may, before coming to the primal argument of Mr. P. S. Bawa, the learned Counsel for the complainant, it is necessary to clear the decks with regard to one factual aspect. This pertains to the question whether the deceased had committed suicide or whether he had received burn injuries accidentally while working on a kerosene stove.

It may be highlighted here that the Insurance Company referred the matter to Shri S. C. Mehta, as an Investigator in the case which is a usual and standard practice in claims of loss due to accident. No serious challenge could be laid to the detailed report of Shri S. C. Mehta who is the Managing Director of Strategic Security Consociates. This is a detailed document, Annexure R-I and the conclusion arrived at merits notice in extenso:-

"The rough analysis of the documentary and circumstantial evidence on the case, has apprised us of the following facts/findings:- 1. The circumstantial evidence does indicate that Shri Shiv Kumar Duggar (the insured) had not used the kerosene stove to warm-up his lunch when the reported accident occurred on 14.12.1990. Instead, he had poured kerosene oil on his clothes in a bid to burn himself and commit suicide (refer evidence under issue No. 1 and para 4 under issue No. II). Besides, had there been any jumping of the stove oil/flames the face of the insured would have been the first to be affected with the burns, whereas it was not so in his case. 2. It is a fact that the signatures of Shri Shiv Kumar Duggal have been forged by some person on various documents, after his death with the obvious motive to hide the facts about his suicide from the Insurers (Refer sub para v of para 4 under issue No.1 and Paras to 4 under issue No. II). Branch Office/L.I.C.(1) Phagwara had even agreed to supply the photocopies of the Proposal Forms of the insured's L.I.C. Policies, bearing his signatures if a written request to the effect is made to them officially by the National Insurance Company Ltd.

4. THE Branch Office, L.I.C. (I) Phagwara had requested us to supply them the information gathered by us about the prolonged epileptic disease of Shri Shiv Kumar Duggal (Refer Exhibit 1 to 7 with this report), so that they could reconsider payments of the claims to the nominees of the late Shri Shiv Kumar, because according to them, no L.I.C. claim is admissible if any such disease is not disclosed to the doctor at the time of the medical check up of the insured at the time of the procurement of the L.I.C. Policies. For this we informed them, that they too would have to send a written request to the C.H:R.O., National Insurance Co. Ltd. Opinion In the light of the above mentioned facts and findings on the case, I am of the opinion that the claim is not justified and not payable by the National Insurance Co.

Ltd., subject to the terms and conditions of the policy and the under writers accepting their liability." On 24.9.1992, the Insurance Company repudiated the claim vide Annexure P-2. THE relevant part whereof is in the following terms:-

"It is to inform you that the competent authority has repudiated your claim because on going through the investigation report of M/s. Strategic Security Consociates, it has been observed that the deceased committed suicide which is against the spirit of policy conditions. So under these circumstances, claim is not payable and the claim file has been closed."

There is ample material brought on the record on behalf of the Insurance Company which raises a serious doubt in the case of the complainant. On a consideration thereof, the Insurance Company has on its own showing come to a bona fide conclusion that the claim of the complainant was not tenable and was consequently repudiated. Once that is so, it is difficult and indeed impossible in the consumer jurisdiction to hold that there was patent deficiency in the service which the insurer had undertaken to render. Inevitably, the complainant must fail in his attempt to seek redressal within the summary jurisdiction under the Act.

In support of his case, the complainant rested himself content by filing documents and no other evidence was adduced. Even no reason as to why the complainant himself had refrained from appearing in the case was indicated. In rebuttal, the Insurance Company relied on the report (Ex.R.1) submitted by their Investigator, Shri S. C. Mehta. In the present case what is surprising is that the complainant himself has not chosen to support his version in the witness box. Obviously, he was the best witness to depose directly with regard to the allegations made on his behalf in the complaint. In view of what has been indicate above, it is not possible to arrive at any categoric findings of fact as to, whether the deceased had committed suicide by immolating himself or he sustained injuries accidentally while working on a kerosene stove. It is an old adage the complainant's case has to stand on its own legs. It would be somewhat obvious in the present case that on his behalf, the complainant has been unable to lay a sure foundation or establishing as a fact that the deceased had received burn injuries accidentally while working on a kerosene stove. Having regards to the facts and circumstances of this case and the nature of controversy between the parties, we are firmly of the view that this is a matter which should be adjudicated be fore a Civil Court where the complainant as well as the Insurance Company will have ample opportunities to examine the witnesses at length and have elaborate trial of the case. In view of this, it is not necessary to examine the other questions arising out of this complaint.

5. FOR the aforesaid reasons, we dismiss the complaint. However, the complainant may have recourse to Civil Court, if he so desires. No order as to costs. Complaint dismissed. _____