Kajol Vs Life Insurance Corporation of India

None

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: April 4, 2011

Citation: 2011 0 NCDRC 178 : 2011 2 CPJ 104 : 2011 2 CPR 40

Hon'ble Judges: R.C.Jain , Vineeta Rai , Vinay Kumar J.

Final Decision: Petitions are dismissed

Judgement

1. THESE two revision petitions arise from the common order of the Delhi Consumer Disputes Redressal Commission in FA Nos.08 of 54 and 08

of 55. The RP/Complainant Mrs. Chander Kanta in RP No.51 of 2011 is the natural guardian of RP/ Complainant Kajol in RP No.50 of 2011.

2. THE two revision petitions have been filed with delay of 30 days which is not explained. THErefore, they are liable to be dismissed on this count

alone. We have however, examined them on merits.

The facts of the case as seen from the perusal of the records are that one Virender Singh, husband of Complainant Chander Kanta and father of

Complaint Kajol, had taken two life insurance policies from the Respondent/LIC of India on 28.03.2001 and 27.02.2002. Both polices had

lapsed for a period of about 12 months during 2004-2005 and were subsequently revived on 10.06.2005. The insured Virender Singh, died on

19.11.2005. Claims filed by the Complainants under the two polices were both repudiated by the LIC on 27.02.2007 on the ground that the

insured was suffering from tuberculosis since 2004 and had been under-treatment for the same. While filing the policy revival form in both the cases

the information relating to this ailment was not disclosed.

In the proceeding before District Consumer Forum, Nandnagri, Delhi, the LIC relied upon records of the Rajanbabu T.B. Hospital where the

deceased was admitted from 13.02.2005 to 14.03.2005 and of treatment by private medical practitioner since September, 2004. The deceased was also under treatment for the same in Indira Nursing Home and maternity center for two days in March, 2005. The District Forum rejected the

repudiation of the insurance claim on this ground, observing that the policies were originally taken in 2001 and 2002 i.e. well before the evidence of

treatment for tuberculoses in 2004. The District Forum therefore did not accept it as a case of preexisting disease and ordered the OP/insurance

Company to pay the insurance amount with compensation and costs, in both cases.

3. THIS decision was reversed by the State Commission in the two impugned orders, now in revision before us. The State Commission took note

of the fact that the deceased Rajender Singh had filed fresh personal statements and proposal forms on 4.6.2005 to get the polices revived. The

fact of illness and treatment of tuberculosis had not been mentioned therein. The state Commission therefore, held it to be a case of non-disclosure

of true facts and made the following observation:- THIS is a case where Section 45 does not apply and where averments made in the proposal

form and the personal statement are made the basis of the contract in a similar situation in the case LIC of India Vs. Smt. S. Vijaya- (1995) CPJ

122 (NC) National Commission held that: It is evident that in the personal health statement submitted by the insured just prior to the revival of

policy, he had suppressed the material facts concerning his health. As such the repudiation of the policy by the Life Insurance Corporation was fully

warranted and there has been no deficiency in service because of such repudiation.

The State Commission has come to the conclusion that the deceased knowingly gave incorrect information about his personal health and therefore

the OP/Insurance Company was right in repudiating the claim.

4. WE have heard the counsel for the Revision Petitioners and with their consent the matter was reserved for final order on merits on 22.02.2001.

On behalf of the revision petitioners, reliance has been placed on the decision of Honble Supreme Court of India in Mithoo Lal Nayak Vs. LIC of

India, AIR 1962, SC 814. It has been claimed that the statutory period of two years for the purposes of Section 45 of Insurance Act, should run

from the date on which the polices were originally taken and not from the dates of their revival. Accordingly, it is claimed that the burden of proof

to establish concealment of facts relating to the illness of the deceased should lie on the insurer i.e. LIC of India. WE have already noted above that

evidence relating to prior illness of the deceased had been placed by the LIC and considered by the fora below.

In our opinion, the law on the need for full disclosure stands clearly enunciated through a string of decisions of the Supreme Court of India ending

with a reiteration in Satwant Kaur Sandhu Vs. New India Assurance Co. Ltd. IV (2009) CPJ 8 (SC). It was held that a contract of insurance is

one of utmost good faith on the part of the assured. Thus, it needs little emphasis that when an information on a specific aspect is asked for in the

proposal form, an assured is under a solemn obligation to make a true and full disclosure of the information on the subject which is within his knowledge. It is not for the proposer to determine whether the information sought for is material for the purpose of the policy or not.

In view of the above, we find no illegality, material irregularity or jurisdictional error in the impugned orders of the Delhi Consumer Disputes

Redressal Commission which could justify our intervention under Section 21 (b) of the Consumer Protection Act 1986. The revision petitions are

therefore, dismissed with no orders as to costs.