

(2015) 01 NCDRC CK 0082

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: 1496 of 2010

LIC OF INDIA

APPELLANT

Vs

SAURABH AGARWAL

RESPONDENT

Date of Decision: Jan. 2, 2015

Citation: 2015 6 AILMR 99

Hon'ble Judges: J.M. Malik

Advocate: A.K. Kaushal, Yuvraj Singh

Judgement

1. Counsel for the parties present. Arguments heard. Smt. Vinita Agrawal, sister of Sh. Saurabh Agrawal obtained insurance policy in the sum of Rs.8,00,000/- on 09.12.2005. Unfortunately, she passed away on 05.01.2007. Thereafter, Sh. Saurabh Agrawal, her nominee filed the claim, which was rejected on the ground that she had suppressed the material fact that she was ailing with cancer.

2. The petitioner-Insurance Company has placed on record a number of medical certificates, which go to show that she consulted a Physician on 16.02.2004 as an outdoor patient. I have perused the medical certificate. There is no inkling that she was suffering from cancer. It rather shows that she was suffering from bleeding. I have gone through the medicines as well, which were given in order to prevent the bleeding.

3. She again consulted the doctor on 28.09.2005. I have gone through the medicines, which are not meant for cancer.

4. She again visited the doctor on 03.12.2005, which shows that she was suffering from heavy prolonged periods but no medicine was given to cure cancer. In the meantime, she has taken the Insurance Policy on 09.12.2005.

5. She again visited the doctor on 04.02.2006, 05.02.2006, 26.02.2006, 20.09.2006 and 14.11.2006. These reports are that she was suffering from prolonged bleeding.

6. For the first time, it came to the knowledge of the doctor on 28.11.2006 that she was suffering from Polycystic Ovary. For the first time, there was indication of cancer. Prior to that, there is no indication of any cancer. Though, her death certificate goes to show that she died due to polycystic Ovary Syndrome, which is a type of cancer of ovary. There is nothing on the record to show that she was aware on 08.12.2005 and 09.12.2005 that she was suffering from this ailment. It was not in her knowledge and cannot be said to be a suppression of pre-disease.

7. Counsel for the petitioner submits that she was 20 years of age and she should have informed the LIC that she was suffering from excessive bleeding. The State Commission has very well held that there is no such column in the proposal form. Many ladies in this country suffer from heavy bleeding and this was not a fact to be mentioned.

8. However, it is surprising to note that in this country, whenever the doctor advises his or her client that her death is imminent, people rush to take the insurance policy. They have no qualms about telling the untruth. Counsel for the respondent/complainant admits that prior to that she never applied for insurance policy. This was her first and last insurance policy. Although, a veil of suspicion covers the complainant's case, yet, it is rudimentary principle of Jurisprudence that suspicion cannot take the place of proof.

9. It is also surprising to note that the investigators in the LIC are inefficient persons. They did not take the trouble to investigate the case properly. They should have approached the doctor, who had treated the patient. They should have asked what her ailment was, they should have tried to procure doctor's affidavit, if necessary. No attempt was made to elucidate this point. The suspicion about manipulation also lingers on. The petitioner-LIC made allegations like a bull in China shop i.e. in a very clumsy way. Allegations carry little value but the proof carries enough value. It is also note-worthy that none of the investigators of LIC went to any doctor to know, what kind of medicine she was having. Though, to my knowledge, there was no indication of such medicine concerning cancer nor the counsel for the petitioner pointed it out.

10. In the light of this discussion, the Revision Petition is dismissed.