

Repudiation of life insurance claim on ground of concealment of material facts regarding health at the time of policy revival: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION NEW DELHI

PRITHVI PAL SINGH

...Appellant

LIFE INSURANCE CORPORATION OF INDIA & 2 ORS.

...Respondent

Case No: REVISION PETITION NO. 2600 OF 2017

Date of Judgement: 01 January 2024

Judges:

SUBHASH CHANDRA – PRESIDING MEMBER

For Appellant: MS. NAMRATA CHANDORKAR, MR. RITESH KHARE, ADVOCATES

For Respondent: MS. GULTANSH GURON, MR. ROOPANSH PURHOIT, ADVOCATES

Facts:

Petitioner's son Lal Sahab Yadav purchased LIC policy of Rs. 3 lakhs on 05.07.1999 with quarterly premium payment. Policy lapsed from 06.02.2006 to 12.02.2007 due to non-payment of premium. Policy revived on 04.02.2008 but cancelled by LIC on same day. Reason given was that insured met with accident on 25.01.2008 and hospitalized, which he did not disclose while reviving policy. Insured died on 23.02.2008.

Petitioner's claim repudiated on 31.12.2008 citing concealment of material facts regarding health at time of revival. Petitioner approached District Forum which allowed the claim. LIC appealed in State Commission.

District Commission's Findings and Order:

LIC admitted the policy was taken and renewed. But LIC repudiated claim on ground of wrongful revival suppression material facts. Commission held repudiation was unjustified since LIC produced no proof of cancellation of revival or documents showing wrong facts given. LIC failed to make claim payment despite admission of insurance and death of insured. Directed payment of sum insured Rs. 3 lakhs along with compensation for harassment.

State Commission's Findings and Order:

Deceased got lapsed policy revived on 04.02.2008 based on declaration that he was in sound health. But he was admitted in hospital on 28.01.2008 for accident injuries, and died on 25.02.2008. Thus he was admitted during the same period when he declared himself to be in sound health for revival. Information provided was therefore false and materially wrong. Order of District Forum allowing claim was erroneous, hence set aside. Appeal of insurance company allowed.

Arguments by Petitioner:

Statement of deceased taken in 'OT' meant 'One Time' not 'Operation Theatre'. So there was nothing false in form filled for revival.

Arguments by Respondent LIC:

'OT' clearly means Operation Theatre as insured was admitted for accident injuries. Non-disclosure regarding hospitalization makes the revival application malafide.

Revision Petition Commission's Order:

Undisputed deceased was hospitalized on 04.02.2008 when his lapsed policy was revived. He could not be considered in sound health and

failed to disclose hospitalization. This amounts to concealment of material facts, order of State Commission justified. However, LIC itself admitted some paid-up value till lapsing was payable. While dismissal appeal against order of State Commission, LIC directed to pay the paid-up sum assured value.

Sections and Laws Referred:

Sections 2(1)(g), (o), 14 and 19 of the Consumer Protection Act, 1986. The order relies on established law that renewal of a lapsed life insurance policy requires disclosure of material facts regarding health, and any suppression makes the contract voidable at the option of the insurer. The main legal import is that if there is clear evidence of hospitalization or treatment at the exact time of revival of a lapsed policy, non-disclosure of this material fact entitles the insurance company to repudiate the policy and deny the claim amount.

Case Laws Referred:

No case laws were referred in the order.

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Full Text of Judgment:

1.This revision petition as sails the order dated 07.04.2017 of the State Consumer Disputes Redressal Commission, Uttar Pradesh, Lucknow (in short, 'the State Commission') in First Appeal No.1294 of 2011 setting aside the order dated 05.05.2011 of the District Consumer Disputes Redressal Forum, Allahabad (in short, 'the District Commission') in Complaint No.659 of 2008.

2.The facts of the case, in brief, as stated by the petitioner, are that the petitioner's son, Lal Sahab Yadav, had purchased a life insurance policy on 05.07.1999 (Policy No.310698315) for asum assured of Rs.3,00,000/-. The premium was to be paid quarterly. The policy of premium stood lapsed from 06.02.2006 till 12.02.2007 due to non payment of instalment of premium. On 04.02.2008, the policy was

revived but was, therefore, cancelled by the opposite party on the same day for the reason that on 25.01.2008, the insured had met with an accident and was hospitalized in Jeewan Jyoti hospital, Allahabad. The insured however, expired on 23.02.2008. The claim filed by the petitioner was repudiated on 31.12.2008 by the opposite party on the ground that:-

"...it had indisputable evidence and reasons to believe that before the policy was revived the assured had met with an accident and was admitted in hospital from 28.01.2008 to 25.02.2008. He did not however, disclose these facts in his said personal statement. We can therefore entertain claim for the paid-up value of the policy only which were secured by the policy on the date of lapse".

3. Against this repudiation, the petitioner approached the District Forum which allowed the appeal and ordered the payment of sum insured of Rs.3,00,000/- and other benefits along with Rs.5,000/- for mental harassment and Rs.1,000/- as costs. The respondent approached the State Commission in appeal which set-aside the order of the District Forum holding that the policy was revived on the basis of materially wrong facts and, therefore, the order of the District Forum was held to be erroneous.

4. I have heard learned counsel for both parties and given careful consideration to the material on record.

5. The findings of the District Forum in complaint no.659 of 2008 are as follows:-

"Complainant has proved through his evidence and defendant has also admitted that insured Lal Sahab Yadav had taken policy from them vide policy No.310698315. Defendant Insurance Company has not made the payment of insurance claim to the complainant only on the ground that policy had expired and insured Lal Sahab Yadav had got it renewed on 04.02.2008 in a wrong manner however he was admitted at Jeewan Jyoti Hospital on 04.02.2008 and during the treatment he expired on 25.02.2008 and when it was learnt the order of renewal was cancelled and the amount deposited by the depositor was refunded and the receipt was for feited. Complainant has filed the premium receipt with his complaint, from the perusal of which it is clear that insured has got

renewed its elapsed policy. Defendant has stated that they have cancelled the renewal of policy of the Insured and the amount has been refunded to him, which is incorrect because defendant has not produced any order of cancellation of policy renewal and original receipt which was for feited from the Insured or any other documentary evidence which may prove that the policy of the Insured had elapsed. Any person takes the Life Insurance Policy for the purpose that if meets with an accident in his life time, his family may get some financial assistance. At the time of commencement of insurance, Insurance company behaves very politely but at the time of making its payment, Insurance company makes fabricated grounds to avoid the payment. It is clear from the evidence that defendant Insurance Company has admitted that insurance was done and Insured died at Jeewan Jyoti Hospital on 25.02.2008 and Insured has also got renewed his policy. Complainant is his nominee. In these circumstances, defendant has committed deficiency in service by not making the payment of insurance amount and therefore his complaint deserved to be decreed on this ground".

6. The order of the State Commission in its findings records as below:-
"Now it is to be seen as to whether the lapsed policy was got revived by the deceased on the basis of materially wrong facts and therefore, the appellant was not liable to make the payment of the insured amount. In this regard, it is to be noted that a policy was taken by the deceased on 28.03.1999 for an insured sum of Rs.3 lacs. The contention of the appellant is that the policy was taken by the deceased on 28.03.1999 for an insured sum of Rs.3 lacs. The contention of the appellant is that the policy had lapsed because of non-payment of premiums and that it was revived on of a declaration made by the deceased about his health that he was in sound health, as is evident from the statement made by the deceased for the revival of the policy on 04.02.2008. The appellant is very categorical in stating that the deceased was admitted in the Jeevan Jyoti Hospital where he was getting treatment in consequence of an accident and despite that the deceased had given the materially wrong facts that he was of sound health and that he did not suffer any accident etc. as is evident from the aforesaid document but it is to be noted that on 04.02.2008 the information was recorded during his stay in the hospital for

treatment. It is also to be noted that he was admitted in the Jeevan Jyoti Hospital on 28.01.2008 because of an accident and that he expired on 25.02.2008 in the hospital itself which means that the deceased had been in the hospital from 28.01.2008 till his death on 25.02.2008.

Hence, there is no question of his being of sound health when he had filled the form for revival of the policy.

In this regard, it is argued by the learned counsel for the respondent that the statement of the deceased was taken in the O.T. i.e. Operation Theatre and there is nothing false in the form filled by the deceased. We find this argument to be self-defeating as when the insured's statement was recorded in the O.T getting treatment of accidental injuries in consequence of which he dies.

Therefore, it cannot be assumed that form was correctly filled by the deceased in the hospital.

Besides, it is argued by the ld. Counsel for the respondent that the O.T. here means One Time and not Operation Theatre. Therefore, it is clear that the informed given was in this case materially wrong and therefore, it is on the basis of wrong and malafide edifice that the revival of the policy was constructed.

We do not have any hesitation in concluding that the lapsed policy was got revived by the deceased by providing materially wrong facts and of course such a policy cannot be sustained for the purposes of providing any relief or allowing the claim of the complainant to get the insured amount. Therefore, ld. Forum has passed an absolutely wrong and erroneous order which cannot be sustained, therefore, the impugned order is liable to be set aside and the appeal allowed".

7. From the foregoing, it is apparent that the policy was revived during the period when the Deceased Life Assured (DLA) was admitted in hospital due to a road accident. Admittedly, the DLA was admitted to hospital on 04.02.2008, therefore, the revival on 04.02.2008 could not have recorded that the DLA was in sound health. Learned counsel for the respondent has also brought to our notice during arguments that the revival of the lapsed policy is considered as a fresh policy and disclosure of material facts is considered anew. Manifestly, in this case the information disclosed by the petitioner amounted to

concealment of fact of his being in good health, since, that he was already admitted in the hospital.

8. For the above said reasons, the order of the State Commission cannot be faulted. There is therefore, no ground to warrant to any interference by this Commission in the order of the State Commission which is liable to be upheld. However, it is apparent the State Commission had not adjudicated on the plea of the petitioner that the sum assured under the policy till the lapsing of the policy should be paid to him as per Rules. The letter of repudiation issued by the respondent also states that this amount is payable to the petitioner.

9. In view of the foregoing, while upholding the order of the State Commission in First Appeal No.1294 of 2011, the respondent is directed to comply with its admission in the repudiation letter dated 31.12.2008 to pay the sum assured to the DLA as on the date of the lapsing of the policy. Parties shall bear their own costs. All pending I.As, if any, also stand disposed off with this order.