

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 2600 OF 2017

(Against the Order dated 07/04/2017 in Appeal No. 1294/2011 of the State Commission Uttar Pradesh)

1. PRITHVI PAL SINGH

S/O. LT. RAM LAL SINGH R/O. RAMNAGAR BHEJA,
ALLAHABAD
UTTAR PRADESH

.....Petitioner(s)

Versus

1. LIFE INSURANCE CORPORATION OF INDIA & 2 ORS.
THROUGH ITS BRANCH MANGER, HAVING ITS BRANCH
OFFICE SITUTATED AT YAMUNAPAR NAINI,
DISTRICT-ALLAHABAD
UTTAR PRADESH

2. LIFE INSURANCE CORPORATION OF INDIA
THROUGH ITS DIVISIONAL MANAGER, JEEVAN
PRAKASH BHAWAN 170/25, MG MARG CIVIL LINES
ALLAHABAD
UTTAR PRADESH

3. R.K. TRIPATHI
AGENT OF LIC R/O. BHEJA ROAD,
ALLAHABAD
UTTAR PRADESH

.....Respondent(s)

BEFORE:

HON'BLE MR. SUBHASH CHANDRA, PRESIDING MEMBER

FOR THE PETITIONER : MS. NAMRATA CHANDORKAR, PROXY
COUNSEL (WITH AUTHORITY LETTER)
FOR MR. RITESH KHARE, ADVOCATE

FOR THE RESPONDENT : FOR RESPONDENT NOS.1 & 2 : MS. GULTANSH GURON,
PROXY COUNSEL
(WITH AUTHORITY LETTER)
FOR MR. ROOPANSH PURHOIT, ADVOCATE
FOR RESPONDENT NO.3 : EX PARTE VIDE ORDER DATED
28.07.2023

Dated : 01 January 2024

ORDER

1. This revision petition assails 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 a sum 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 forfeited. 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 forfeited 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".

(Emphasis added)

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 the basis 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".

(Emphasis added)

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.

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SUBHASH CHANDRA
PRESIDING MEMBER