

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES
REDRESSAL COMMISSION : HYDERABAD.**

**F.A.No.143 OF 2020
AGAINST ORDERS IN C.C.25/2018, DATED 17.12.2019
DISTRICT CONSUMER COMMISSION, NALGONDA**

Between:

1. Smt. Govinda Rajula Radha Kumari,
W/o Govinda Rajula Venkata Shobhan Chalapathi Rao,
Aged about 53 years, Occ.: Housewife.
2. Govinda Rajula Venkata Sai Sree Keerthi,
Govinda Rajula Venkata Shobhan Chalapathi Rao,
Aged about 24 years, Occ.: Student,
Both are R/o Srinagar Colony, Nalgonda Town, Nalgonda.
.....Appellants/Complainants

And:

1. The Advocates Mutually Aided Co-operative Society Ltd.,
City Civil Court at Hyderabad-500 002, T.S.
Rep. by its Authorized Person/The Secretary.
2. The United India Insurance Company Limited,
Corporate Cell, 3rd Floor, 1-7-21/1D, Ramalayam,
Sarojinidevi Road, P.B.No.1651, Secunderabad-500 003,
Rep. by its Regional Manager.
3. The United India Insurance Company Limited,
Suryapet Branch, D.No.1-4-150, 1st Floor,
Near Old Municipal Office, K.K.Road,
Suryapet Town & District-508 213,
Rep. by its Branch Manager.
.....Respondents/Opposite Parties

Counsel for the Appellants/Complainants : M/s V.Gouri Sankara
Rao.

Counsel for the Respondent No.1 /Opposite Party No.1 : Called
absent.

Counsel for the Respondent No.2 & 3/Opposite Party No.2 & 3 :
Sri M.Shanker

QUORUM :

**HON'BLE SMT. MEENA RAMANATHAN, I/c PRESIDENT
&
HON'BLE SRI. V.V.SESHUBABU, MEMBER – (JUDICIAL)**

**TUESDAY, THE 12th DAY OF NOVEMBER
TWO THOUSAND TWENTY FOUR**

Order : (PER HON'BLE SRI. V.V.SESHUBABU, MEMBER – JUDICIAL)

1. The appeal is filed u/s 15 of the Consumer Protection Act, 1986 by the unsuccessful complainants against the order dated 17.12.2019 in CC.No.25/2018 by the District Consumer

Disputes Redressal Commission, Nalgonda, where under the complaint was dismissed without costs.

2. The brief averments of the complaint in CC 25/2018 are that the complainant No.1 is the wife and the complainant No.2 is the daughter of the life assured late GVS Chalapathi Rao, who being an Advocate obtained Group Personal Accident policy from the opposite party No.1 on 03.12.2015 vide Policy No.5005004215P110982359 which is valid from 03.12.2015 to 02.12.2016. The sum assured is at Rs.10,00,000/- , wherein that the complainant No.1 is the nominee; that on 30.06.2016 at 08:00 A.M., while the complainant's No.1 husband was taken to the operation theatre for having Spinal Fusion Procedure in Rohini Super Speciality Hospital, suffered with sudden heart attack and died; that the death due to sudden heart attack comes within four corners of accidental death as mentioned in terms and conditions of the policy; that the complainants have submitted the claim and it was repudiated on 22.05.2018 on the ground that, sudden heart attack not comes under accidental death; that the complainant got issued a legal notice, dated 06.06.2018; that the brother of the complainant No.1 even gave complaint to the SHO, Nalgonda II Town Police Station against doctors of Rohini Hospital for the death of his brother-in-law; that as claim was repudiated, the complaint is filed claiming Rs.10,00,000/- towards assured amount with interest 24% per annum from the date of death till realization besides for damages and mental agony.

3. Though the notice was served on the opposite party No.1, failed to appear before the Commission below and called absent.

4. The brief averments of the written version of Opposite Party No.2 & 3 are that the scope of policy is death due to accident and an accident means "*a sudden unforeseen and involuntary event caused by the external, visible and violent means*". It shows the policy does not cover death due to mere heart attack; that the

insured admittedly died due to mere heart attack; that the order of the *Honble National Consumer Disputes Redressal Commission, reported in CPJ 2007 (4) NC 335*, is not applicable to the facts of the case, in view of the several case laws of the *Hon'ble Supreme Court, reported in 2016 (3) SCC 49*. With this requested to dismiss the complaint with costs.

5. Before the Commission below, complainant No.1, filed evidence affidavit as PW1 and marked Ex. A1 to A20. One Ms. C.H.Kalyani, Manager of the Insurance Company, filed evidence affidavit as RW1 and got marked Ex.B1 & B2.

6. The Commission below, settled the following points for discussion viz..:

- **Whether there is any deficiency of the service on the part of Opposite Parties No.1 to 3?**
- **Whether complainants are entitled for the claims, they made in their complaint?**
- **If so, to what relief?**

7. Having heard the contesting parties, the Commission below dismissed the complaint. Aggrieved by the same, the present appeal is filed by the complainants with the following grounds:

- The order of the Commission below is contrary to law, weight of evidence and probabilities of the case.
- The Commission below ought to have allowed the complaint as insured died due to sudden heart attack, which comes under the terms and conditions of the policy.
- The Commission below failed to observe Ex.A3, Ex.A8 and Ex.A9 which shows that due to sudden heart attack, the insured died in Rohini Hospitals.
- The Commission below failed to appreciate the case laws filed before it.

With these grounds and others that will be urged at the time of arguments, requested to allow the appeal and also the complaint as prayed for.

8. Now the points for determination in the appeal are :

- (1) **Whether the death due to heart attack is covered under accidental policy issued by the opposite parties No.2 & 3?**
- (2) **Whether there is any deficiency of service on the part of the opposite parties No.2 & 3?**
- (3) **Relief?**

9. Heard the arguments of both sides. For the sake of convenience the parties will be addressed as they arrayed in the impugned order.

10. **POINTS 1 to 3:** It is the contention of PW1 that her husband while taking to the operation theatre to undergo Spinal Fusion operation suffered sudden heart attack and died due to the same. It is the contention of the complainants that “sudden heart attack” is equivalent to accidental death as mentioned in the policy. There is no dispute about the insured obtaining Group Accidental Death policy and coverage of the policy for Rs.10,00,000/- and the policy is valid from 03.12.2015 to 02.12.2016. The entire dispute is whether the sudden heart attack is covered under the policy?

11. The appellant counsel relied upon a citation reported in *IV (2007) CPJ 335 (NC) Rita Devi @ Rita Gupta vs. National Insurance Co., Ltd., & others*, “Cold wave was sudden-Number of persons including insured suffered massive heart attack as a result of which he died-Death accidental proved-Insurance Company liable under the policy”.

12. It is to be observed that in the case on hand, there is neither cold wave or heat wave. The insured was admitted in the hospital to undergo operation for spinal fusion. While being taken to the operation theatre, suffered sudden heart attack and died.

13. As against the above case laws, the respondents’ counsel relied upon the judgments of the *Hon’ble Supreme Court reported in AIR 2019 SC 2088 in Smt.Alka Shukla vs. Life Insurance Corporation of India*. In para 5 of the judgment of Hon’ble Supreme

Court, observed that the accidental death is to be assessed with the following points:-

(i) Whether the assured's death was due to a bodily injury resulting from an accident caused by outward, violent and visible means;

(ii) Whether the injury was proximately caused by the accident.

It is only when both the questions are answered in the affirmative then the complainant would be entitled to claim under the policy.

In the above cited case, the insured while driving the motor bike, felt pain in the chest and shoulder on 03.03.2012 and so, fell down from the bike and then he was taken to the hospital, where he was said to have died due to heart attack. The Hon'ble Supreme Court observed that the main cause for the death is the heart attack, thereby dismissed the appeal filed by the wife of the insured.

14. In the case on hand, not even accident is also there. Therefore, we are of the emphatic view that, the case law relied upon by the appellants/complainants will not hold water and on the other hand, in view of the judgment of the Hon'ble Supreme Court, as referred supra, the appeal is liable to be dismissed. The points are answered against the appellants/complainants.

15. In the result, the appeal is dismissed without costs by confirming the order dated 17.12.2019 in CC No.25 of 2018, passed by the District Consumer Disputes Redressal Commission, Nalgonda.

Dictated to the Stenographer and typed by her on the System and corrected by me and pronounced by us in the Open Court on this the 12th day of November' 2024.

Sd/-

Sd/-

I/c PRESIDENT MEMBER-JUDICIAL

Dated : 12.11.2024

*AD