

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION
BIHAR, PATNA**

Complaint Case no. 44 of 2017

Shabra Khatoon, W/O- Late Md. Alam Ariz, R/O- At Kaila Jalalpur,
P.O.- Salempur Dumaria, P.S.- Goraul, District- Vaishali.

....

Complainant

Versus

1. Bajaj Allianz Life Insurance Company Ltd. 1st Floor, Ram Raja Complex, Ka Chary Road, Hajipur, Vaishali- 844101.
2. Bajaj Allianz Life Insurance Company Ltd, 5th Floor, GE Plaza, Airport Road, Yerwada, Pune- 411006.

....

Opposite Parties

Counsel for the Complainant: Mr. Anil Kumar

Counsel for the Opposite party: Mr. Abhay Kumar Sinha

Before,

Hon'ble Mr. Justice Sanjay Kumar, President

Mr. Ram Prawesh Das, Member

Dated-09.09.2024

As per Sanjay Kumar, President.

Order

1. Complainant is widow of late policy holder Md. Alam Ariz who took a Life Insurance Policy from opposite party Bajaj Allianz Life Insurance Company Ltd.
2. Deceased life insured had submitted a proposal form dated 23.06.2015 to the Insurance Company for purchasing Life insurance policy namely (basic lifelong assured plan) for sum assured of Rs.7,98,000/- with death benefit of 250% of the basic sum assured i.e. Rs.19,95,000/- for which first premium of Rs.1,21,062/- was paid by the deceased life assured and accepted by Insurance Company and thereafter policy bond was issued by the Insurance company to the deceased life assured
3. Before issuance of policy insured was medically examined by the panel doctor of insurance company who had examined insured and several pathological tests were conducted which were found normal and health status of insured was found good and thereafter panel doctor certified health status of insured as good on 27.06.2015 and recommended for acceptance of insurance policy and thereafter proposal for insurance policy was accepted and policy bond was issued and date of commencement of insurance policy was 23.07.2015.

4. Life assured died on 16.08.2015 at home due to heart attack. Complainant intimated the Insurance Company about the death of policy holder.
5. Complainant submitted claim form for payment of death claim along with all relevant document i.e. death certificate, original policy bond, nominee, address proof, Bank Passbook, mandate form to opposite parties for settlement of claim and opposite parties issued claim notification no.1516013161 and informed complainant by letter dated 11.01.2016.
6. The claim of complainant was repudiated by letter dated 09.03.2016 and complainant was informed against repudiation of claim she can represent before claim review committee.
7. Complainant represented before claim review committee upon which certain documents i.e. Account number, address of Bank, IFSC number were sought but no decision was taken by review committee for a long period than complainant filed consumer complaint case for payment of death claim with interest as well as for compensation on account of physical and mental harassment and cost of litigation.
8. The cause of action arose on 16.08.2015, 11.01.2016, 09.03.2016, 11.04.2016 and finally on 07.03.2017 as such complaint case is filed within limitation as stipulated under section 24 (A) of Consumer Protection Act 1986.
9. Notices were issued to opposite party and upon receipt of notice they appeared and filed their written statement.
10. Opposite party no.1 and 2 in their written statement have admitted that husband of complainant namely Md. Alam Ariz after understanding all the terms and conditions of the insurance policy had submitted a duly signed proposal form dated 23.06.2015 for issuance of life insurance policy under "basic life long assure plan" for the sum assured of Rs.7,98,000/- with regular annual premium for 15 years with death benefit within 15 years will be 250% of the basic sum assured. First annual premium was paid by insured.
11. Based on information provided in the proposal form and after receipt of the initial premium amount the opposite party Insurance company issued insurance policy with date of commencement of the policy on 23.07.2015 for the sum assured of Rs. 7,98,000/- with death benefit of Rs.19,95,000/- and the insurance policy was delivered to the life insured.
12. Life insured under clause declaration and authorization of the health certificate had declared that contents of proposal form have been fully explained to him and he has fully understood, the significance of the proposed contract in relation to section 45 of the insurance Act. The answers given by him to all the questions in the proposal form and the information given to the Medical examiner of the company as to the state of health and habits are true and complete in every respect and he has not withheld any material information or suppressed any material fact.

13. Opposite party insurance company received death claim intimation application on 11.01.2016 stating therein that life insured Md. Alam Ariz suddenly died on 16.08.2015 due to heart attack and the nominee/complainant Sabra Khatoon claimed death claim of her late husband.
14. Death claim being early claim the insurance company got the claim investigated through its authorized investigating agency namely Sayastruth Financial Innovative Pvt. Ltd., Malviya Nagar, New Delhi and after investigation the Insurance Company came to know that the life insured had preexisting disease and had history of hepatitis, jaundice and diabetes for which he had taken treatment from 27.02.2015 to 18.05.2015 and was referred to PMCH, Patna for further treatment which was prior to signing of proposal form on 23.06.2015. Life insured had deliberately suppressed about his pre-existing disease as such complainant is not entitle to get any death claim benefit and accordingly opposite party Insurance company repudiated the claim by letter dated 09.03.2016.
15. During course of investigation, investigator obtained medical prescription of Dr. Keshwar Prasad, Rashmi Clinic, Digha Ghat, Patna where life insured was treated for hepatitis, jaundice and diabetes on 27.02.2015. Investigator also obtained pathological report of life insured which goes to prove that the blood sugar and Bilirubin level in the blood was above the normal range and confirmed the disease of hepatitis, jaundice and diabetes on 27.02.2015.
16. Complainant has filed her evidence on affidavit and has submitted following documents in support of her claim (i) Proposal Form dated 23.06.2015 (Annexure-1) (ii) Receipt of payment of first premium amount dated 24.07.2015 (Annexure-2) (iii) Medical examination report dated 27.06.2015 of panel doctor of Insurance Company (Annexure-3) (iv) Acceptance and commencement of insurance policy (Annexure-4) (v) Intimation of death under insurance policy (Annexure-5) (vi) Death certificate dated 20.09.2015 (Annexure-6) (vii) Claim intimation receipt dated 11.01.2016 (Annexure-7) (viii) Repudiation letter dated 09.03.2016 (Annexure-7).
17. Opposite party insurance company has placed following documents in their written statement (i) Copy of proposal form dated 23.06.2015 (Annexure-1) (ii) Copy of policy schedule (Annexure-2) (iii) Copy of claim intimation dated 11.01.2016 (Annexure-3) (iv) Copy of repudiation letter dated 09.03.2016 (Annexure-4) (v) Copy of investigation report with pathological reports (Annexure-5).
18. Heard the parties and considered the materials placed on record.
19. The only issue to be determined by this Commission is whether repudiation of death claim dated 09.03.2016 by opposite party Insurance Company on the ground of suppression of preexisting disease by the insured in his proposal form is justified or not.

20. It is admitted by both the parties that deceased life insured had submitted a proposal form dated 23.06.2015 to the Insurance Company for purchasing Life insurance policy namely (basic lifelong assured plan) for sum assured of Rs.7,98,000/- with death benefit of 250% of the basic sum assured i.e. Rs.19,95,000/- for which first premium of Rs.1,21,062/- was paid by the deceased life assured and accepted by Insurance Company and thereafter policy bond was issued by the Insurance company to the deceased life assured.
21. It is also an admitted fact that before accepting the proposal form deceased life insured was subjected to through medical examination by the panel doctor of Insurance Company and several pathological tests were conducted and report of said test were found normal. Sugar was normal in pathological test and life assured was not found to have been suffering from hepatitis and jaundice on the date of conduct of medical examination of life insured by the panel doctor of Insurance Company. Panel doctor declared life insured fit and healthy and of good health status and only thereafter proposal was accepted by the Insurance Company and policy bond issued.
22. Unfortunately, 22 days thereafter life insured expired due to heart attack and Complainant submitted her death claim and same being and early claim Insurance Company got the claim investigated by its investigator.
23. Onus lies on the life Insurance Company to establish that policy holder at the time of submitting proposal form was suffering from disease which was within his knowledge and who suppressed his disease and did not disclose in the proposal form about said disease to defraud insurance company.
24. Life Insurance Company got the claim investigated through its authorized investigating Agency Sayastruth Financial Innovative Pvt. Ltd., Malviya Nagar, New Delhi and upon investigation Insurance company came to know that the life insured had pre-existing disease of hepatitis, jaundice and diabetes for which he had taken treatment from 27.02.2015 to 18.05.2015 and was referred to PMCH for further treatment which was prior to signing of proposal application on 23.06.2015.
25. During course of investigation, investigator obtained medical prescription of Dr. Keshwar Prasad at Rashmi Clinic, Digha Ghat, Patna where the life insured was treated for hepatitis, jaundice and diabetes on 27.02.2015. Investigator also obtained some pathological reports of the life insured which proved that blood sugar and blillirubin level in the blood was above the normal range and confirmed the disease of hepatitis and jaundice on 27.02.2015.
26. Investigator report has been enclosed as annexure-5 from which, it appears that Mr. Prabhat Kumar was appointed as investigator to investigate into the death claim submitted by complainant, however neither anyone from investigating agency has filed any affidavit to verify the contents of investigation report nor the investigator Mr. Prabhat Kumar has filed any affidavit with respect to

- investigation carried out by him. The investigator in its investigation report against the column "are you successful in obtaining strong pre-proposal evidence?" "has answered as" NOT FOUND. The investigator has further reported that life assured was treated for hepatitis, jaundice and diabetes. The investigator against column "General State of Health and habits of deceased L/A for last 3 years" has answered as "Good Health".
27. Several, pathological tests were conducted of life assured on reference made by consulting doctors of Bajaj Alliance Life Insurance Company and tests of blood sugar, lipid profile, serum protein and routine examination were conducted by Gokul Diagnostics, Hospital Road, Gandhi Chowk, Hajipur (Vaishali) and all reports were found to be normal. Medical prescription of Dr. Keshwar Prasad dated 27.02.2015 and pathological tests report dated 27.02.2015 have been enclosed. No affidavit has been filed by Dr. Keshwar Prasad to verify the truthfulness and genuinity of his medical prescription and pathological report both dated 27.02.2015, which prima facie appears to have been manufactured to deny the insurance claim to the complainant.
 28. The investigator has also not disclosed how he obtained the medical prescription and tests report of deceased insured as same must be in possession of deceased insured or his family. It is also unbelievable that a person residing in Garaul Vaishali district will approach a doctor for his treatment who is practicing at a remote place in Patna. There is no evidence of hospitalization of deceased life assured for treatment of alleged diseases.
 29. Medical prescription produced by insurance company was not even proved by any witness. It is for the insurance company to prove fraudulent concealment and suppression of material facts. Repudiation of claim on ground of concealment of facts was on the insurance company but insurance company failed to discharge such onus by any cogent and reliable evidence. Medical prescription and pathological test dated 27.02.2015 are not trustworthy and even have not proved on contrary pathological reports conducted by insurance company after one month of alleged treatment belies life assured to be suffering from any alleged diseases.
 30. The letter of repudiation dated 09.03.2016 cannot be justified also on the ground that although even according to insurance company life assured was suffering from hepatitis, jaundice and diabetes, he died due to heart attack and not from any alleged pre-existing disease.
 31. In **Sulbha Prakash Motegaonkar & Ors. Vs. LIC of India, Civil Appeal No. 8245 of 2015 decided on 05.10.2015**, it was held by the Hon'ble Supreme Court that:

"The husband of appellant No. 1 herein had taken out a Life Insurance Policy. At the time of taking the policy, he had concealed the fact that he was

suffering from lumbar spondilitis with PID with sciatica for which ailment he was taking medical treatment as also he had availed leave on medical grounds.

After the policy was given to the husband of appellant No. 1, he suffered myocardial infarction and succumbed to the ailment. When the appellants made a claim in terms of the life insurance policy, they were told that because the deceased had not disclosed his ailment of lumbar spondilitis with PID with sciatica at the time of filling up of the proposal form, therefore, the claim was repudiated.

The repudiation of the appellants' claim has been upheld by the National Commission and it is under these circumstances the appellants are before this Court.

We have heard learned counsel for the parties. It is not the case of the Insurance Company that the ailment that the deceased was suffering from was a life threatening disease which could or did cause the death of the insured. In fact, the clear case is that the deceased died due to ischaemic heart disease and also because of myocardial infarction. The concealment of lumbar spondilitis with PID with sciatica persuaded the respondent not to grant the insurance claim.

We are of the opinion that the National Commission was in error in denying to the appellants the insurance claim and accepting the repudiation of the claim by the respondent. The death of the insured due to ischaemic heart disease and myocardial infarction had nothing to do with his lumbar spondilitis with PID with sciatica. In our considered opinion, since the alleged concealment was not of such a nature as would disentitle the deceased from getting his life insured, the repudiation of the claim was incorrect and not justified."

18. National Commission in case of *LIC Vs. Sunita 2020 (0) JX (Con) 208* following the judgment of Supreme Court in paragraph no. 9 has held as follows:-

(9) In the present case, the deceased assured was suffering form diabetes mellitus and chronic liver disease when bought to the hospital. But, the death was due to cardiac arrest. In our view the cause of death in nowhere connected to his pre-existing disease. Our view dovetails from the decision of Hon'ble Supreme Court in the Civil Appeal No.8245 of 2015 titled Sulbha Prakash Motegaoneker and Ors. V. Life Insurance Corporation of India, decided on 05.10.2015, wherein it was observed that suppression of information regarding any pre-existing disease. If it has not resulted in death or has no

connection to cause of death, would not disentitle the claimant for the claim.”

19. For the reasons as stated above the letter of repudiation dated 09.03.2016 is not sustainable either in law or on facts and is accordingly set aside.
20. Opposite party life Insurance Company is directed to pay the sum assured amount of Rs.19,95,000/- to the complainant with interest @ 8% p.a. from the date of filing of complaint case till its payment within 45 days from the date of receipt/production of a copy of order passed by this Commission.
21. A copy of this order be supplied to both the parties free of cost as mandated by the Consumer Protection Act. The order be uploaded forthwith on the Confonet of the Commission.
22. Let the file be consigned in the record room along with copy of this order