

Heading1
Heading2

Complaint Case No. CC/390/2018
(Date of Filing : 06 Jul 2018)

1. ANJALI DEVI

VPO KUNDLI 55, DISTT. SONEPAT.

.....Complainant(s)

Versus

1. EXIDE LIFE INSURANCE COMPANY LT.D

1ST FLOOR, OPP. HOTEL MIDTOWN, G.T.ROAD, NEAR
SANJAY CHOWK, PANIPAT.

.....Opp.Party(s)

BEFORE:

NARESH KATYAL PRESIDING MEMBER

PRESENT:

Dated : 24 Sep 2024

Final Order / Judgement

STATE CONSUMER DISPUTES REDRESSAL COMMISSION HARYANA, PANCHKULA

Date of Institution: 06.07.2018

Date of Final Hearing: 30.07.2024

Date of Pronouncement: 24.09.2024

Consumer Complaint No.390 of 2018

Smt. Anjali Devi Wd/o Sh. Vipin Kumar Aggarwal (life assured), R/o Village and Post Office Kundli-Kundli-55, District Sonapat-132108.

....Complainant

Versus

1. Exide Life Insurance Company Limited, Service Branch, Sheela Shopee, 1st Floor, Opposite Hotel Midtown, G.T. Road, Near Sanjay Chowk, Panipat (Haryana) through its Branch Manager.

2. Sh. Kshitij Jain, Managing Director & CEO, Exide Life Insurance Company Limited, 3rd Floor, J.P. Techno Park No. 3-1 Millers Road, Bengaluru-560001.
3. Exide Life Insurance Company Limited, Ashoka Plaza, First Floor, Opp. Karvi Limited, Delhi Road, Rohtak-124001 (Haryana) through its in-charge.Opposite Parties

CORAM: Sh. Naresh Katyal, Judicial Member

Argued by:- Mr. Sudhir Gupta, counsel for complainant

Mr. Inderjeet Singh, counsel for opposite parties.

ORDER

NARESH KATYAL, JUDICIAL MEMBER:-

Complainant-widow of Vipin Kumar Aggarwal has alleged that her husband had obtained Insurance Policy (*Exide Life Insurance*) in which she was made nominee. Proposal form dated 09.02.2018 was filled. Policy schedule reflects that policy was for term of 30 years. It commenced from 28.02.2018 and maturity date was 28.02.2048. Premium was Rs.56,987/- - semi-annual to be paid for 15 years. Sum assured in terms of policy was Rs.11,24,191/-. Policy schedule also recites “Accidental Death Disability Dismemberment Riders” with Rider Cessation Date as 28.02.2033 and Rider Benefit of Rs.11,00,000/-.

2. Vipin Kumar Aggarwal met with road side accident on 29.03.2018, when he was hit by car No. DL-4C-NC-8940. FIR was registered at Police Station: Kundli, District-Sonepat on same day. Vipin Kumar Aggarwal died and his postmortem was conducted. Intimation regarding death of life assured Vipin Kumar Aggarwal-husband of complainant was given to OPs and they were requested to get formalities completed for death claim, as per Exide Life Guaranteed Income Insurance Plan UIN No. 114NO67V01. Complainant was also asked to complete formalities. Thereafter, complainant contacted OP No.1; also submitted representation dated 28.05.2018 duly acknowledged by OP No.3. OPs instead of making payment of sum assured (*guaranteed death benefit*) along with rider benefit amount: total amounting to Rs.22,48,382/-, have/had in an illegal and arbitrary manner refunded by depositing premium amount in bank account of her husband, without notice to her. Thereafter, OP No. 1 and OP No. 3 refused to accept papers to consider settlement of claim in terms of contract of insurance. Complainant sent legal notice dated 12.06.2018. On these pleas; complaint has been filed for issuance of directions to OPs to pay her: claim amount of Rs.22,48,382/-; compensation of Rs.1.00 lacs for mental agony and harassment and Rs.33,000/- as cost of proceedings with 18% interest. Text of complaint is supported by complainant’s affidavit.

3. OPs raised contest. In jointly filed written statement; it is pleaded that there was no valid insurance policy in favour of deceased at the time of his death, as policy No. 03725771 was already terminated/cancelled on 24.03.2018 as per Section 45(2) of the Insurance Act on the ground of adverse medical history which was not disclosed in proposal form by life assured and

same was immediately communicated to life assured and premium amount of Rs.56,686/- was immediately refunded to life assured in his bank account maintained in Corporation Bank. At the time of proposing for policy; Vipin Kumar Aggarwal did not disclose about his ailment of liver problem from which he was suffering from last two years. Insurer received report from 'Fraud Detection and Prevention Unit' whereby it was reported that: life assured is/was suffering from liver problem and is/was under medication. Hence, it is pleaded that since policy was already cancelled before death of deceased; as such there was no valid insurance at the time of his death. Precisely on these pleas; dismissal of complaint has been prayed.

4. Parties led evidence. Complainant has tendered her duly sworn affidavit Ex.CA towards her affirmative statement on oath and also relied upon documents Ex.C-1 to Ex.C-12 and closed her evidence on 08.04.2022 through her statement. OPs have tendered duly sworn affidavit Ex.OP/A of Shri Chidanand P. (*its Authorized Signatory*) and relied upon documents viz: Ex.OP-1 to Ex.OP-4 and ultimately closed their evidence through statement of its counsel dated 28.08.2023.

5. We have heard learned counsel for the parties at length and with their able assistance and have also perused the material brought on record of this complaint.

6. On behalf of complainant; it is urged that insurance policy held by Vipin Kumar Aggarwal was 'live and effective' when life assured unfortunately suffered accidental death in an accident of 29.03.2018. It is urged that complainant was nominee of her husband in said policy. OPs have illegally and arbitrarily terminated/cancelled the policy in question through its communication dated 24.03.2018 by taking wrong plea of adverse medical history of life assured, and by intentionally losing its sight of fact that complainant has founded her claim in terms of subject policy, on account of death of her husband in a road accident, which was the precise cause of action. It is urged that: had there been otherwise natural death of life assured, stance of OPs could have been permissible, but same become impermissible on given facts of complaint. Further, it is urged that before termination/cancellation of subject insurance policy; no notice was given to life assured (*husband of complainant*) whose ill-fated accidental death, in any case, was post the date of termination of subject policy by OPs, which is 24.03.2018. As per further contention, termination/cancellation of policy on 24.03.2018, was admittedly done by OPs at the back of complainant's husband and same was clearly an unfair trade practice on its part.

7. On behalf of OPs it is urged that OPs have rightly arrived at its decision to terminate/cancel the subject policy on 24.03.2018. Further, it is urged that no notice was required to be given to life assured (*who was alive on 24.03.2018*) as he has/had misrepresented the fact in proposal form, regarding his past liver ailment. It is urged that immediately on detection of this fact; the premium amount under subject policy was refunded and credited in the bank account of life assured and he was also conveyed about the fact of termination/cancellation of subject policy. It is contended that OPs have no ensuing liability towards complainant viz-a-viz subject policy in question even because of accidental death of her husband.

8. On analyzing rival submissions, this Commission has arrived at firm opinion that this complaint must succeed. Reasons in this regard are obvious and manifest on face of subject policy in question. Admittedly, Exide Life Insurance Policy No. 03725771-Ex.OP-1 got light of its day on 28.02.2018, when risk cover in terms of said policy had commenced. It is manifestly visible from policy schedule itself that sum assured in terms of policy was Rs.11,24,191/- and

said policy also contained accidental death benefit of Rs.11.00 lacs. Life Assured had suffered death on 29.03.2018 (*apparent from death certificated Ex.C-7*) because of road accident of same date i.e. 29.03.2018. FIR was registered on same day. Life assured was brought dead in hospital. Death of life assured in road accident is the only fundamental characteristic meant for giving effect to the subject policy in question for the purpose of granting due benefits to complainant, flowing through it. It has absolutely no nexus with regard to any past medical history of life assured as alleged by OPs. This is because life assured has/had not suffered death because of medical reasons. OPs have terminated/cancelled the subject policy in question, arbitrarily which depict its unfair trade practice. This is deciphered from mere fact that proposal form was filled on 09.02.2018 and risk under policy had commenced 20 days thereafter from 28.02.2018. Intervening period of above 20 days was sufficient time available at the helm of OPs to conduct any investigation regarding any past medical history of complainant, before inception of policy. OPs have taken a positive plea regarding alleged past medical liver ailment of life assured in its written statement. This plea of OPs remained on papers alone, not substantiated by leading evidence admissible under law. No evidence worth the name, in form of any past medical treatment obtained by deceased-life assured has been brought on record by OPs to stimulate its plea. Its reliance on some report (*Ex.OP-2*) of its 'fraud detection and prevention unit' will hardly suffice their stance at legal pedestal. This report *Ex.OP-2* further become unreliable and thus is bereft of credence as same does not bear any signature/official stamp of any official of OPs' fraud detection and prevention unit. It remained mysterious and mystifying circumstance as to who has authored this report. This mystery has not been unveiled by OPs. After inception of subject policy; any willful attempt by OPs to wriggle out itself from its ensuing liability viz-a-viz beneficial consequences flowing under policy towards complainant, would only be viewed with suspicion, doubts and of dubious character, besides being exercise of *mala fide* on its part. Obviously, it will frustrate the tenants of cardinal principals of a well recognized phrase *uberrima fides* which governs insurance contract. At least, on 24.03.2018 life assured was alive. Since decision of OPs to terminate/cancel the subject policy of life assured entails civil consequences for him, therefore, he was certainly required to be heard by OPs before terminating/cancelling his policy. Since, he was not heard therefore, OPs have violated principles of natural justice as well. Terminating the flow of policy has landed complainant (*nominee of her husband*) in a vulnerable state without there being any fault on her part. OPs have tried to unjustly enrich itself with the policy amount (*Guaranteed death benefits plus accidental rider benefits*) by illegally denying the same to complainant. Collectively, the above *mala fide* acts on the part of OPs would ex-facie prove its unfair trade practice and gross deficiency in service towards complainant. Matter does not end here. *EX.OP-4* is the letter dated 03.04.2018 has been addressed to Vipin Kumar Aggarwal (since already deceased on that day) conveying him that policy cancellation amount of Rs.59,686/- has been credited in his Corporation Bank Account ending with 7759 vide UTR No. CITIN18841556999. Crediting the premium amount of Rs.59,686/- in the bank account of deceased-life assured after his death has compounded the acts of *mala fides* of OPs.

9. This being so; in view of critical analysis of all relevant facets of this case; this Commission has absolutely no hesitation but to set aside OPs the letter dated 24.03.2018-*Ex.OP-3* which has the import of cancelling/terminating the subject policy. This letter has no fundamental and formidable base. It is *non-est* in eyes of law and accordingly declared as illegal, not binding on rights of complainant. Consequently, this Commission has arrived at an inescapable conclusion that this Complaint must succeed. It is accordingly accepted/allowed.

Direction is issued to OPs to pay Rs.22,24,191/- (*Rs.11,24,191/- towards guaranteed death benefit and Rs.11,00,000/- rider benefit amount because of accidental death*). Complainant is also held entitled to claim interest on Rs.22,24,191/- @7% p.a. from date of filing of this complaint (06.07.2018) till realization. In addition, Rs.30,000/- is awarded to complainant as compensation for mental agony and harassment suffered by her owing to deficiency in service of OPs and unfair trade practice on its part. Further, Rs.20,000/- is awarded to complainant as cost of litigation. Amount awarded to complainant as compensation and litigation expenses will not carry any interest. OPs would comply with above direction within 45 days from today by directly paying the amount in terms of this order to complainant, else complainant would be at liberty to enforce this order by adopting proper legal recourse of execution and in that eventuality; the rate of interest on awarded amount of Rs.22,24,191/- would escalate from 7% p.a. to 10% p.a.

10. Application(s) pending, if any stand disposed of in terms of the aforesaid judgment.
11. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
12. File be consigned to record room.

Date of pronouncement: 24th September, 2024

Naresh Katyal

Judicial Member

Addl. Bench

**[NARESH KATYAL]
PRESIDING MEMBER**