

STATE CONSUMER DISPUTES REDRESSAL COMMISSION
BIHAR, PATNA
(Complaint Case No. 39 of 2016)

Gopal Sharma,
Son of Shri Ram Ratan Sharma,
R/O- Vill.- Sabara, P.O.- Mahimapur,
P.S.- Tekari, District- Gaya. Complainant.

VERSUS

1. H.D.F.C. Standard Life Insurance Company Limited,
Corporate & Registered Office- Lodha Excelus 13th Floor,
Appolo Mills Compound, N.M. Joshi Marg, Mahalaxmi,
Mumbai-400011.
2. Claim Review Committee,
H.D.F.C. Standard Life Insurance Company Limited,
Corporate & Registered Office- Lodha Excelus 13th Floor,
Appolo Mills Compound, N.M. Joshi Marg, Mahalaxmi,
Mumbai-400011.
3. The IL & FS Financial Centre HDFC Life Company Limited,
Plot No. C- 22 Block Bandra Kurla Complex Board (East),
Mumbai 51 (Maharashtra).
4. The Branch Manager,
HDFC Life Insurance Company Limited,
Branch Office Swarajpur Road, Gaya. Opposite-parties.

Learned counsel for the Complainant- Mr.Chandra Shekhar Singh, Advocate
Learned counsel for the O.P. - Mr. Prakash Chandra Gupta, Advocate



BEFORE,

Miss Gita Verma, Judicial Member

Md Shamim Akhtar, Judicial Member

ORDER

Per: Md. Shamim Akhtar, Judicial Member

Dated-21.06.2024

1. The case of the complainant in brief is that his son namely Prince Kumar (Deceased) had purchased a policy of life namely HDFC Life Click 2 Protect, policy no.- 16658733 from HDFC Standard Life Insurance Company Limited for sum assured Rs. 20,00,000/- towards death benefit and the same was purchased through E-mail process on 19.02.2014, the proposal was accepted thereafter policy was issued in his name on 23.02.2014 and the premium was deposited by the policy holder. Further case is that on 13.06.2014 while the policy holder was returning from Gaya to his native village in the way he became victim of lightning which fell upon him and he died at the spot and the occurrence took place near Dharamsala village. After being informed the complainant and his relatives and family members rushed to the spot and brought the dead body to native village where cremation was performed in presence of the local people and the complainant treated the mishappening as a calamity and so they did not lodge FIR regarding the death.

2. Further case is that after the occurrence when the complainant got insurance paper of the deceased he immediately informed about incident to the Head Office of the Insurance Company where from it



was advised to file death claim and thereafter the complainant submitted death claim with O.P. no.-4 with all the required papers. Thereafter the Head Office of the O.P. no.-1 sent two surveyors and they also asked papers which were given to them. According to the complainant apart from the policy document he submitted death certificate issued by competent authority and he also submitted certificate given by Block Pramukh, register of the Circle Officer as well as memorandum signed by the villagers and also submitted an affidavit sworn by him. Further case is that the Insurance Company did not consider these documents and repudiated the claim and the claim review committee did not accept the claim of the complainant and rejected the same for the reason that since the cause of death is unnatural/accidental in nature therefore it should have been reported to police before cremation and it was informed to the complainant vide letter dated 26.12.2014.

3. Further case is that in response to the above letter of the review committee, the complainant again wrote with all papers on 28.01.2015 but no action was taken. The complainant also approached the IRDA on 11.03.2015 and also sent legal notice on 26.06.2015 but to no effect and hence the complaint with prayer to pass order for payment of the death claim of Rs. 20,00,000/- along with interest from the date of death till payment and also cost of litigation and compensation of Rs. 2,00,000/-.

4. It may be pointed out that the complainant earlier filed the complaint before the Learned District Consumer Forum, Gaya vide complaint no.- 49/2015 in which vide order dated 13.07.2016, the



complainant was directed to file the complaint before the competent court on the ground of pecuniary jurisdiction.

5. The complainant has filed the copy of the order dated 13.07.2016 of Learned District Consumer Forum, Gaya as annexure-1, photo copy of proposal form is annexure-2, Xerox copy of death certificate is annexure-3, photo copy of receiving is annexure-4, photo copy of the certificate given by the Block Pramukh, relevant page of death register and memorandum of villagers are annexure-5 series, photo copy of affidavit is annexure-6, photo copy of letter dated 26.12.2014 is annexure-7, photo copy of the reply dated 28.01.2015 is annexure-8, photo copy of the application dated 11.03.2015 is annexure-9 and photo copy of the legal notice is annexure-10 to complaint petition.

6. The opposite-parties have appeared and filed their written statement. Their case in brief is that they have admitted the policy but have stated that the complainant has not submitted any copy of F.I.R or any medical report or any post mortem report to substantiate the death of LA and only his statement has been submitted with the company, informing the said incident and has not submitted any concrete document which prove the occurrence of the said incident and has also not informed the local police where the said incident alleged to have happened which in such cases is a mandatory legal requirement.

7. Further case of the opposite-parties is that the complainant alleges that his son had died due to lightning which burned him immediately on the spot and in such a case the conduction of post mortem was very necessary requirement to establish the identity of the deceased as burning of the body due to lightning causes serious burn injuries which make the bare identification of the deceased



impossible and so the claim of the complainant was repudiated by the company as the complainant has not been able to establish the death of the life assured in the said incident beyond reasonable doubt and the police was also not informed about the said incident to establish the happening of the said incident and also the identity of the deceased was also not established legally. Further case is that the complainant has failed to mention the source of his information and the complainant proceeded for cremation of the body without informing the police which again is an act in contravention of the relevant laws relating to the occurrence of accidental deaths.

7. Further case of the Opposite-parties is that as per letter dated 26.12.2014 (Annexure-7 to the complaint petition) the complainant was asked to produce additional evidence in support of his claim within 30 days but it was not done. The complainant has failed to prove the said incident beyond reasonable doubts and his whole claim is false and fabricated and has not come before this Hon'ble Forum with clean hands and has concealed material fact of limitation and has nowhere specified that when the cause of action for filing the complaint arose and the present complaint is not legally maintainable and is liable to be dismissed with costs.

8. The opposite-parties have filed Xerox copies of letter dated 24.02.2014, HDFC click 2 Protect Policy and first premium receipt dated 23.02.2014 with their written statement.

9. The complainant has also filed evidence on affidavit the following Xerox copy of documents with exhibit numbers which are as follows:-

1. Xerox copy of the proposal form of HDFC Life Click Protect sent through email as Ext-1.



3. Xerox copy of letter sent by claim review committee dated 26.12.2014 as Ext-3
4. Xerox copy of reply dated 28.01.2015 sent to claim Review Committee along with tracing report of postal receipt, as Ext-4 and 4/A
5. Xerox copy of letter dated 13.03.2015 sent to IRDA, Delhi along with tracking report of postal receipt as Ext-5 and 5/A
6. Xerox copy of application seeking information through RTI dated 27.04.2015 along with postal order and tracking report of postal receipt as Ext-6, 6/A and 6/B
7. Xerox copy of legal notice dated 26.06.2015 along with tracking report of postal receipt as Ext-7
8. Xerox copy of Death Certificate issued by Mukhiya of Sanda Panchayat as Ext-8
9. Xerox copy of affidavit dated 28.07.2014 sworn by the complainant as Ext-9
10. Xerox copy of register of circle office Sanda Block, Tekari as Ext-10
11. Xerox copy Memorandum signed by villagers as Ext-11
12. Xerox copy of certificate issued by Anganwari Sevika namely Manju Singh regarding death of Prince Kumar as Ext-12
13. Xerox copy of certificate issued by Pramukh Panchayat Samiti regarding death of Prince Kumar as Ext-13
14. Xerox copy of death certificate issued by Circle Officer vide no.-228667 dated 19.06.2014 regarding death of Prince Kumar as Ext-14
15. Xerox copy of Income Certificate of the deceased issued by Circle Officer as Ext-15
16. Xerox copy of Domicile Certificate of the deceased issued by Circle Officer as Ext-16



16 Xerox copy of Domicile Certificate of the deceased issued by Circle Officer as Ext-16

The Opposite-parties have also filed Evidence cum written notes of argument annexing therewith the following xerox copies of documents:-

- 1) true copy of communication marked as Annexure E-1
- 2) true copy of communication marked as Annexure E-2.
- 3) Xerox copy of letter dated 07.08.2015 as Annexure E-3.
- 4) Xerox copy of letter dated 06.08.2015 as Annexure E-4.
- 5) Xerox copy of claim investigation report dated 28.07.2014 as annexure- E-5.
- 6) Xerox copy of report death claim as Annexure E-6.

10. The complainant has also filed a separate written notes of argument.

11. At the time of argument it were mainly argued on behalf of the complainant that in support of the death of the LA many documents have been filed as evidence on affidavit which are on the records and the repudiation of the claim by the opposite-parties are unjustified and illegal and the claim of the complainant may be allowed. In course of the hearing it was also submitted on behalf of the complainant that in support of his case a case law reported in (2005) 1 CPJ passed by Utrakhand State Consumer Dispute Redressal Commission in Narendra Singh Bhasin vrs. National Insurance Company Limited (Appeal no.- 899/2003) has also been filed with the written notes of argument wherein it has been held that it is not mandatory that there should be necessarily FIR or Post Mortem in every accidental death, if accidental death is proved otherwise, then in the absence of FIR or

otherwise the claim should not be rejected. It is also submitted that the case of the complainant is covered by the said case law.

12. None has appeared on behalf of the opposite-parties for hearing their evidence cum written notes of argument is on record.

13. Perused the records. The policy is admitted. According to the complainant the LA who was his son died due to the lightning while coming to his native village from Gaya. The opposite-parties have taken the stand that the complainant has not submitted any FIR or Post Mortem report or medical report with respect to the death of the policy holder which is necessary to prove the unnatural/accidental death and in absence of these documents the opposite-parties rejected the death claim of the complainant. Further they have also taken the stand that as the accident due to the lightning would have caused severe burn injury on the deceased, hence the process of identification of the dead body was mandatory.

14. The complainant in support of his case has filed on affidavit the Xerox copy of death certificate issued by the Mukhiya Sanda Panchayat (marked as Ext-8), Xerox copy of affidavit dated 28.07.2014 sworn by the complainant (marked as Ext-9), Xerox copy of the register of the Circle Officer Sanda Block, Tekari (marked as Ext-10), Xerox copy of the memorandum signed by the villagers (marked as Ext-11), Xerox copy of the certificate issued by the Anganwari Sevika namely Manju Singh regarding the death of Prince Kumar (marked as Ext-12), Xerox copy of certificate issued by Pramukh Panchayat Samiti, Tekari regarding death of Prince Kumar (marked as Ext-13), Xerox copy of the death certificate



15. Thus from the above documents it is proved that the deceased Prince Kumar died due to lightning. The above mentioned documents cannot be burshed aside merely because the death is an accidental one and it was not reported to the police or post mortem not conducted. In the circumstances of the instant case it does not appear mandatory that there should be necessarily FIR or post mortem. From the aforesaid documents filed by the complainant the accidental death is proved otherwise then in the absence of FIR or post mortem report the claim should not have been rejected. The complaint is thus **allowed**.

16. We therefore, direct the opposite-parties to pay the insured amount of Rs. 20,00,000/- (Rupees twenty lacs only) to the complainant along with interest @ 6% per annum from the date of filing of the complaint till actual date of payment within two months from the date of this order. The opposite-parties shall also pay a sum of Rs. 10,000/- (Rupees ten thousand only) as costs of the litigation to the complainant within the aforesaid time.

A copy of this order be supplied to both the parties free of cost as mandated by the Consumer Protection Act, 2019. The order be uploaded forthwith on the confonet of the State Commission.

Let the file be consigned in the record room along with copy of this order.