

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION-II, VISAKHAPATNAM**

Date of Registration of the Complaint: 31.05.2022

Date of Final hearing: 18.04.2024

Date of Pronouncement: 18.05.2024

CONSUMER CASE No.184/ 2022

In the Matter of:

Sri Mutchakarla Naidu, S/o Late Mutchakarla Rajubabu, Kondapalem, Butchayyapeta, Visakhapatnam, Andhra Pradesh-531026.

(Through: Smt P. Gangamma)
... Complainant

Versus:

1. ICICI Prudential Life Insurance Company Limited, Service Office-The Manager, 3rd & 4th Floor, Travellers Bungalow Road, Near Sampath Vinayaka Temple, CBM Compound, Visakhapatnam, Andhra Pradesh-530003.
2. ICICI Prudential Life Insurance Company Limited, Regd Office: The Manager, ICICI Pru Life Towers, 1089, Appasaheb Marathe Marg, Prabhadevi, Mumbai, Maharashtra-400025.

(Through: Sri Aspana Srinivasa Rao)
... Opposite Parties

CORAM:

Smt. G.Venkateswari, M.Sc, LLB., President, Smt. P.Vijaya Durga, B.Com, B.L., Women Member., Sri Karaka Ramana Babu, M.Com, M.B.A., LL.B., Member.

P r e s e n t:

1. Smt. G Venkateswari, M.Sc, LLB.,
President
2. Smt. P Vijaya Durga, B.Com, B.L.,
Women Member
3. Sri Karaka Ramana Babu, M.Com, M.B.A., LL.B.,
Member

JUDGEMENT

(As per Sri Karaka Ramana Babu, Honourable Member, on behalf of the Bench)

I. The complainant filed the present complaint against opposite parties praying the Honourable commission to pass an award in his favour and against the opposite parties that, to pay a claim amount of Rs.20,00,000 /- (Rupees twenty lakhs only),



together with, compensation and costs etc., on account of deficiency in service on part of the opposite parties, for non-settling of the insurance claim.

II. Brief facts of the complaint filed by the complainant are as follows:

- a) The Complainant is the son and also nominee of the deceased Life Assured (DLA) by name Mutchakarla Raju Babu, who obtained insurance policy during his life time from ICICI Prudential Life Insurance Company Limited, Policy bearing No.GTTE00000035766 on 23.10.2021 coverage of insurance sum assured of Rs.20,00,000/- and premium payable at the rate of Rs.3,517/- per year and policy commencing from 23.10.2021 to 22.10.2022. The policy is issued to the customers of PhonePe Pvt. Ltd, which bears the master Policy No.00006421 by ICICI Prudential Life Insurance Company Ltd, and offers the Benefits mentioned under the policy.
- b) On 24.01.2022, the DLA attacked by Buffalo in his village which caused a very serious body injuries immediately he admitted Government Hospital PHC at Butchayyapeta treated and he was sent to home, but pain and sufferings due to said injuries he was again taken for treatment to Sri Sri Rama Nursing Home at Ravikamatham on 28.01.2022, inspite of the treatment his health was worsening due to which he was died on 01.02.2022 at his home, during the existence of the policy. The complainant is the nominee of the deceased/insured intimated the death of insured to the opposite parties but there is no response from their end.
- c) The complainant further states that the opposite parties wantonly not responded till today which amounts deficiency of service on part of the Opposite parties, due such the complainant is suffered mental agony and sufferings as such the complainant approached this Commission seeking redress. Hence, this complaint.
- d) **Citations filed on behalf of the complainant:**
- i. In LIC of India Vs. Hamida Bano by The Jammu and Kahsmir and Ladakh High Court in C.M.No.813/2021 decided on 19.12.2022.
 - ii. In Darshan Kumar Vs. New India Assurance Co. Ltd, by The DCDRC, Ferozepur in C.C.No.268/2020 decided on 18.08.2023.



iii. In Baljit Kaur Vs. Aditya Birla Insurance Co. Ltd. by The Hon'ble SCDRC, Chandigarh in C.C.No.862/2019 decided on 01.02.2022.

III. Version of the Opposite parties:

a) The Opposite parties filed written statement by stating that the opposite parties denies all the allegations, assertions and contentions as urged by the complainant in the present complaint individually and collectively, save and accept to extend specifically admitted hereafter. Any allegations, averments and / or contention not specifically admitted, though not traversed, shall be deemed to have been denied individually and collectively. That the complainant has been filed the complaint solely on the basis of concocted story in order to gain monies from the Opposite parties.

b) The Opposite parties filed written statement rising preliminary objections that the complainant has not submitted the claim form nor have completed the claim formalities and requirements raised by the company. Further, it is pertinent to note that since the Company does not have any personal interaction with the proposer, The Company is not provided with any contact details of the proposer, including his/ her mobile number, address etc. Even in the present case, the Company did not have any contact details of the DLA.

c) The opposite parties further states that upon receipt of the letter dated 15.03.2022 from the complainant which are incomplete set of documents as such the company, on its own attempt to trace its address and email id finally the company proactively sent a claim requirement letter dated 24.08.2022 to his communication address recorded in the complaint. The present complaint is premature.

d) The opposite parties further states that the subject policy was availed through an online digital application channel of phonepe, which is DLA voluntarily went to phonepe's app and selected the policy and furnished all details himself, but no any personal interaction with the proposer.

e) The Opposite parties further states that the insurance company always worked within the confines and the frame work of the terms and conditions of the subject policies and there has been no negligence of deficiency in their service, moving to



which, there exists no liability on the opposite parties compensate the complainant. Therefore, the opposite parties pray the commission the present complaint to be dismissed with the exemplary costs.

IV. During the course of enquiry, the complainant got filed his evidence affidavit and documents got marked as Ex A-1 to A-8 and Anshritha Rai, Senior Manager-Legal of the opposite party company filed evidence affidavit in support of opposite parties case and the documents got marked Ex B-1 to Ex B-4.

V. The complainant has filed written arguments and also submitted their oral submission to substantiate his case. The opposite parties filed their written arguments reiterating their version and submitted their oral arguments.

VI. Based on the rival contentions, the points that would arise for consideration are as follows:

- i. Whether there is any deficiency of service on part of the opposite parties for non- settlement of the insurance claim?
- ii. Whether the complainant is entitled to reliefs claimed in the complaint?
- iii. To what relief?

VII. All the points for consideration are interlinked. Hence the same are discussed combined as follows:

a) Pursued the record. Before adverting to the disputed questions involved in the lis, it is appropriate to refer the admitted facts culled out from the pleadings and the evidence placed in the record by the both parties. It is not in dispute that complainant herein is the son and nominee of the DLA and he is legally entitled to make claim against the opposite parties by the virtue of the policy covered under Ex A-1 . It is also admitted fact that deceased life assured obtained ICICI Life Insurance Company Limited vide policy bearing No.GTPE00000035766 on 23.10.2021, Master Policy No.00006421 having coverage of insurance sum assured of Rs.20,00,000/- on yearly premium of Rs.3,517/- (including taxes) and the policy is in force as on the date of death of DLA.



b) The insured has taken the policy from the opposite parties and the complainant is residing at Visakhapatnam within jurisdiction of this commission. With regard to the limitation for filing the complaint, the insured died on 01.02.2022, the complaint is filed within in time before the commission on 31.05.2022 i.e., within 2 years and cause of action also correctly noted and it is time and again reiterated by various State and National Commissions and as well as by the Apex Court that complaints against deficiency of service by the insurance companies fall within the four corners of the CP Act. One of such judgments is Gurpreet Kaur Vs. Bajaj Allianz Life Insu. Co. Ltd., reported in I (2022) CPJ 112(Del.).

c) The contention of the complainant is that his father/insured took the policy from the opposite parties on 23.10.2021 and insured died on 01.02.2022 due to buffalo attack on 24.01.2022 which results serious injuries even after taking treatment and thereafter he informed (Ex.A-5) same to the opposite parties but there is no response but the opposite parties sent an email letter (Ex.A-7) dated 24.08.2022 for requisites of documents for which the complainant submitted all the requisite documents to the opposite parties (Ex.A-8) through letter dated 10.10.2022 with response to the email letter, but in vain. The claim of the DLA is not settled till today, the acts of the opposite parties comes under the deficiency of the service due to which he suffered huge loss as such the opposite parties are liable, and also denied material allegations of the counter, Evidence affidavit and Written arguments filed by the opposite parties. The complainant filed documents to substantiate his case, which are marked as Ex A1 to Ex A8.

d) The main contention of the opposite parties is that they denied policy as the company did not have any contact details of the DLA as per their counter. Later, they admitted policy but they denied any kind of personal interaction with the proposer and also required requisite documents as per Ex.A-7 in their Evidence affidavit. Finally, in their written arguments, the opposite parties took a new plea that upon investigation conducted by the company in accordance with Section-45 of Insurance Act, it was revealed that Mr. Mutchakarla Raju Babu (DLA) had actually died on 23.09.2021 i.e.,



exactly a month period to the policy commencement date. Thus the death of insured on 01.02.2022 is false which is nothing but a playing a fraud on the insurer. Therefore, they arises deficiency on part of the insurance company as such no benefits are payable as per the policy as insured who was already dead at the time of issuance of the policy.

e) In order to establish the fact that the contract entered into the parties to the lis, suffers from any fraud or misrepresentation. The onus probandi is always on the parties who assert the said fact. When once the party discharges the onus, the onus shift to the other side to revert the said presumption.

f) In the instant case both the parties have lead their evidences in support of their contentions. As such the importance of the onus probandi is receded. Now, it is for the opposite parties to establish that their action of non-settlement of claim were justified, placing acceptable and cogent evidence on record.

g) On perusal of the whole record, the opposite parties have took multiple pleas at different stages of the case and more particularly the pleas are inconsistence to the other pleas i.e., first they took a plea that details of the insured were not traced in their records, secondly, the complainant has not submitted their claim forms and thirdly, insured died prior to issuance of this policy. Thus during filing of written version, evidence affidavit and written arguments three different pleas inconsistent to each were taken by the opposite parties. Furthermore, there is no relevancy for pleas taken by the opposite parties which did not find place in their pleadings.

h) Except bald averments with regard to alleged DLA died prior to issuance of policy in written arguments raised by opposite parties, but there is nothing on the record/cogent evidence filed before the commission to show that the complainant's father is not alive, prior to the date of issuance policy. It cannot be taken into consideration on the ground firstly the original report of the investigation agency not filed. Even not filed master policy of this policy. Hence, the inconsistence pleadings of the opposite parties require to be rejected. Furthermore, the complainant established death of insured on 01.02.2021 by filing death certificate (Ex A4) and also



filed medical prescription of insured with regard to treatment (Ex A2 & A3) and request letters (Ex A5 & A8) by complainant to opposite parties for settlement of claim but the opposite parties sent letter dated 24.08.22 (Ex A7) to complainant for asking documents during the pendency of this complaint, knowing well that the relevant documents were supplied to them at their appearance in this matter. However the complainant send all the requisite documents but in vain. Even otherwise, the opposite parties state in their written arguments that they have appointed an investigator in this matter and he has issued his report, then basing on what documents, the investigator was appointed and what documents were supplied to the investigator to investigate upon. Thus it is clear that the opposite parties are speaking falsehood. It seems that to escape from their liability they took inconsistency pleas, which are unjustifiable.

i) Mere saying in their written statement, evidence affidavits and written arguments by the opposite parties with regarding inconsistency pleas not acceptable. The opposite parties failed to file any supported documents proofs before this commission to substantiate their case with cogent evidence to show and prove that the insured has misrepresented. Hence, we do not give any weight to said allegations. If such mechanism is available what prevented the opposite parties to verify at the initial state prior to issuance of policy. Once accepting the premium and having entered into the agreement without verifying the facts by the insurance company cannot wriggle out of the liability merely by saying that contract was made by misrepresentation and concealment. The Rajasthan State Disputes Redressal Commission at Jaipur has rendered an Order dated 21-02-2010 and reported in 2012(2) CPR 220 clearly supports the case of the Complainant.

j) Simply by saying that policies are taking from online website like Phonepe etc., the insurance companies cannot be avoid the claim as there is no personal interaction with customer. Furthermore, online digital policies are issued through various offers to attract the customers for collecting the premiums but when it comes for claim, insurance companies are cannot be avoid their liability by blaming on the online



digital insurance, which is not acceptable. The case laws cited by the opposite parties are no way connected to the facts on hand as such the same were not considered by this Commission.

k) Hence, we come to an opinion that the non-settlement of the claim opposite parties is illegal and unjust, the acts of opposite parties clearly falls under the deficiency service on their part.

VIII. Conclusion:

a) This Commission has opines that the inaction and non-settlement of the claim by the opposite parties is quite unjust and illegal and the same amounts to deficiency of service on part of the opposite parties as a result of the same, the complainant has suffered mental agony and sufferings and is entitled for just compensation along with claim. Hence, opposite parties are jointly and severally liable.

b) Therefore, this Commission is inclined to award the sum assured to a tune of Rs.20,00,000/- (Rupees Twenty lakhs only) to the Complainant together with interest @ 4 % p.a. from the date of order till the realization;

c) Now what quantum of compensation is to be awarded is to be discussed. Once the earning person dies, his entire family falls on roads. At that juncture, monetarily some solace will be to the family if the death claim is paid by the insurer. Thus, this commission arrives at a conclusion that a sum of Rs. 30,000/- (Rupees Thirty Thousand Only) as just and reasonable compensation payable to the complainant by the opposite parties on account of the mental agony suffered by the Complainant. Further the Complainant is entitled of Rs. 5,000/- (Rupees Five Thousand Only) for costs of litigation.

IX. Result:

In the result, the complaint is allowed in part. The opposite parties are jointly and severally directed to pay an amount of Rs.20,00,000/- (Rupees Twenty lakhs only) to the complainant together with interest @ 4 % p.a. from the date of order till the realization; and also further directed to pay compensation of Rs.30,000/- (Rupees Thirty Thousand Only) towards mental agony suffered by the Complainant on account



of deficiency of service, apart from Rs.5,000/- (Rupees Five Thousand Only) is awarded as costs to the complainant. Time for compliance is 45 days from the date of receipt this order.

X. Applications pending, if any, stand disposed of in terms of the aforesaid judgement.

XI. A copy of this judgement be provided to all the parties free of cost as mandated by the Consumer protection Act 1986/2019. The judgement be uploaded forthwith on the website of the Commission for the perusal of the parties.

XII. File be consigned to record room along with a copy of this judgement.

Dictated to the stenographer, and transcribed by him, corrected and pronounced by us in the Open Commission, the 18th day of May, 2024.



Sri Karaka Ramana Babu
Member

Pronounced on: 18/05/2024

Appendix of Evidence

For the Complainant:

No.	Date	Description of the document	Remarks
Ex A-1	23.10.2021	Insurance policy	Original
Ex A-2	24.01.2022	Out patient ticket, PHC Butchiyyapeta	Original
Ex A-3	28.01.2022	Sri Rama Nursing Home, Doctor Prescription	Original
Ex A-4	04.02.2022	Policy Holder death certificate	Original
Ex A-5	15.03.2022	Complainant letter to Opposite party	Photostat Copy
Ex A-6	----	Postal Tracking Slip	Photostat Copy
Ex A-7	24.08.2022	Email correspondence from Opposite party	Photostat Copy
Ex A-8	10.10.2022	Email reply to Opposite party	Photostat Copy

For the Opposite parties:

No.	Date	Description of the document	Remarks
Ex B-1	15.03.2022	Letter along with the documents	Photostat Copy
Ex B-2	24.08.2022	Letter written by Opposite party	Photostat Copy
Ex B-3	24.08.2022	Email written by the Opposite party	Photostat Copy
Ex B-4	14.05.2019	Claim Intimation required for registration	Photostat Copy


18/5/24
President


18/5/24
Member

//BN//