

M. P. STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

PLOT NO.76, ARERA HILLS, BHOPAL

FIRST APPEAL NO. 1442 OF 2019

(Arising out of order dated 05.07.2019 passed in C.C.No.140/2016 by District Commission, Morena)

HARIRAM SINGH KUSHWAHA,

S/O SHRI NAKTURAM,

R/O SITARAM BANDOOK WALI GALI,

GANESHPURA, MORENA (M.P.)

... APPELLANT.

Versus

LIFE INSURANCE CORPORATION OF INDIA,

BRANCH MORENA, THROUGH BRANCH MANAGER,

BESIDES RADHIKA PALACE, MORENA (M.P.)

... RESPONDENT.

BEFORE :

HON'BLE SHRI A. K. TIWARI : ACTING PRESIDENT

HON'BLE DR. SRIKANT PANDEY : MEMBER

COUNSEL FOR PARTIES :

Shri Naresh Kumar Chourasia, learned counsel for the appellant.

Shri Deepesh Shukla, learned counsel for the respondent.

ORDER

(Passed On 23.07.2024)

The following order of the Commission was delivered by A. K. Tiwari, Acting President:

The complainant/appellant has filed this appeal against the order dated 05.07.2019 passed by the District Consumer Disputes Redressal Commission, Morena (for short 'District Commission') in C.C.No.140/2016 whereby the District Commission has dismissed the complaint filed by him.

2. Briefly stated facts of the case are that the complainant's wife Late Smt. Kalawati (herein after referred to as deceased-insured) during her life time had obtained an insurance policy no.203724138 from the

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opposite party-Life Insurance Corporation of India (hereinafter referred as LIC) on 28.05.2012 for sum insured of Rs.1,00,000/-. The complainant was nominated as nominee under the subject policy. During the currency of the policy she died on 02.07.2015. The complainant being nominee filed a claim along with all necessary documents with the LIC for sum insured. It is alleged that vide letter dated 25.05.2015, the LIC repudiated the claim on the ground that the deceased-insured did not disclose the correct facts in the proposal form regarding previous medical history and there was suppression of material facts at the time of taking revival of the policy. It is submitted that the deceased-insured was not suffering from any disease, instead she was in shock as her son died. The complainant therefore alleging deficiency in service on part of LIC filed a complaint before the District Commission seeking sum insured of Rs.1,00,000/- with interest and compensation of Rs.20,000/- with costs.

3. The opposite party LIC in its reply before the District Commission submitted that it is true that the deceased-insured had obtained subject policy but the premiums due from May-2013 to November-2014 were not paid and therefore the subject policy had become lapsed. The subject policy got revived on 01.12.2014 wherein the deceased-insured declared herself healthy whereas she was suffering from Sinus Polycardia Right Axis and getting treatment in Rathi Hospital,

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Morena. In the form for revival she declared herself healthy. Thus the deceased-insured at the time of revival of policy suppressed the material fact regarding her illness and therefore the LIC declaring the revival null and void denied the insurance claim. The complainant is therefore not entitled to get any relief under the policy. Therefore there is no deficiency in service on part of the LIC in repudiating the claim. It is therefore prayed that the complaint be dismissed.

4. The District Commission dismissed the complaint holding that while repudiating the claim there has been no deficiency in service on part of the LIC.

5. Heard learned counsel for the parties. Perused the record.

6. Learned counsel for the complainant/appellant argued that the District Commission has committed material irregularity in not going through the affidavit of the complainant and other related documents which clearly demonstrate that the deceased-insured was not suffering from any disease. He argued that the subject policy continued for a period of three years from 02.07.2015, the District Commission did not consider this important aspect. The complainant never revived the policy nor filed any application for any medical examination. He argued that the insurance company has failed to prove that the deceased-insured was suffering from any disease.

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He therefore prayed that the impugned order be set-aside and the appeal be allowed.

7. Learned counsel for the opposite party/respondent-LIC submitted that the policy got revived without medical examination and only on the basis of information given by the deceased-insured. After examination, the claim filed by the complainant was repudiated and the complainant was informed. In the proposal form in reply to query clause whether you are suffering from any disease or took treatment for more than a week, the deceased-insured has given answer in 'No'. The complainant is not entitled to any claim. He therefore supporting the impugned order prayed for dismissal of appeal.

8. The complainant has filed his affidavit along with documents C-1 to C-3 in support of his complaint. On behalf of LIC an affidavit of Pankaj Bohra, Manager (Legal) along with documents R-1 to R-15 has been filed.

9. We have carefully perused the record as also the impugned order. The complainant has filed copy of repudiation letter and death certificate of his wife and son. Repudiation letter is dated 25.05.2015 (C-2) wherein it is stated that the deceased-insured did not disclose the previous medical history in the proposal form at the time of revival of insurance policy, and therefore, we are unable to honour the claim. The proposal

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form for revival of policy is R-12 wherein under clause 2 regarding suffering from ailments, i.e. *Are you suffering from or have you ever suffered from any disease?*, the deceased-insured answered in 'NO'. In Clause 4 *Are you healthy at present?* the deceased answered in 'Yes'

10. The LIC has filed documents R-1 to R-7 in order to show that the deceased-insured was taking treatment from 24.11.2014 to 02.12.2014 and she was suffering from Sinus Polycardia Rt. Axis. The complainant not controverted those documents. In such circumstances, it is very well established from the record that the deceased insured took treatment from 24.11.2014 to 02.12.2014 in Rathi Clinic and Nursing Home, Morena and at the time of getting revival of policy on 01.12.2014 she was getting treatment in Rathi Clinic and Nursing Home and she had suppressed this material information in the proposal form (R-12) dated 01.12.2014 in order to obtain revival of the lapsed policy.

11. In view of the aforesaid, it is clear that at the time of taking revival of lapsed policy, the deceased-insured was suffering from Sinus Polycardia Rt. Axis and she was under treatment but she did not disclose this important fact to the LIC. The contract of insurance is based on utmost good faith and it is well settled that in case of suppression of material fact, the claimant is not entitled to get any relief on account of violation of policy terms and conditions. Thus, we are of a considered opinion that the LIC

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has committed no error or deficiency in service in repudiating the claim of the deceased-insured filed by the complainant.

12. In view of the aforesaid discussion, we are of the opinion that the District Commission has committed no error in dismissing the complaint. We do not find any illegality or infirmity in the impugned order. Accordingly, it is hereby affirmed.

13. In the result, this appeal fails and is hereby dismissed with no order as to costs.

(A. K. Tiwari)

(Dr. Srikant Pandey)

Acting President

Member