

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 863 OF 2021

(Against the Order dated 08/07/2021 in Appeal No. 378/2021 of the State Commission
Karnataka)

1. LIFE INSURANCE CORPORATION OF INDIA & ANR.Petitioner(s)

Versus

1. C.D SANJAY & 2 ORS.Respondent(s)

BEFORE:

**HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.),PRESIDING
MEMBER**

FOR THE PETITIONER : FOR PETITIONERS : MR.ANKUR GOEL, ADVOCATE

FOR THE RESPONDENT : FOR RESPONDENTS : NEMO (EX-PARTE VIDE ORDER DT.
19.02.2024)

Dated : 01 May 2024

ORDER

1. This Revision Petition has been filed under Section 58(1)(b) of the Consumer Protection Act, 2019 (the "Act") against impugned order dated 08.07.2021, passed by the Karnataka State Consumer Disputes Redressal Commission, Bangalore ("State Commission") in FA No.378 of 2021 wherein the State Commission dismissed the Appeal and affirmed the order dated 26.02.2021, passed by District Consumer Disputes Redressal Forum, Hassan ("District Forum") in CC No.193 of 2019, wherein the Complaint was allowed in part.

2. As per report of the Registry, there is 2 days' delay in filing the Revision Petition. In view of the facts and circumstances of the case, the delay is condoned.

3. For convenience, the parties are referred to as placed in the original Complaint before the District Forum.

4. Brief facts, as per the Complainants, are that the deceased, BS Soumya, took out a Jeevan Saral Policy for Rs. 1,00,000/- with an accidental death benefit of Rs. 1,00,000/- upon the persuasion of the OPs to aid their business. She diligently paid the premiums due from 23.12.2011 onwards. However, due to heavy rain and floods in June 2018, she couldn't pay the premium for that month. Tragically, while engaging in agricultural activities using a temporary boat in flooded Igoor river, she got drowned and her body was found on 25.09.2018. The OP company paid the assured sum of Rs. 1,00,000/- with interest but denied the accidental death benefit. Despite repeated requests, they refused to pay the accidental

death benefit. Alleging deficiency of service, the Complainant approached the District Forum seeking direction to the OPs to pay the accidental death benefit of Rs. 1,00,000/- along with interest on the policy of deceased BS Soumya and Rs. 25,000/- towards deficiency in service.

5. In reply, the OPs acknowledged that the deceased BS Soumya, had obtained the policy from them and Rs. 1,26,136/- was paid to the Complainant as death claim. OPs contended that as per LIC Jeevan Saral Plan, if premiums are paid for 3 years or more, the risk cover under the main plan is extended for 12 months from the date of first unpaid premium due. However, this auto cover extension does not apply to term assurance benefit rider and accidental death benefit rider. Therefore, they settled death benefit to the Complainant, who was the policy nominee. OPs denied that the policyholder was prompt in premium payments without any delay or default, stating that the premium due on 6/2018 was not paid before her death. The grace period was till 22.07.2018 and the life assured died on 25.09.2018. The settlement was done as per the policy and that the Complainants are not entitled to accident benefit/ term rider benefit.

6. The District Forum, vide order dated 26.02.2021, partly allowed the complaint and directed as under:

“ORDER

1. Complaint is allowed in part.

2. The OP Company is directed to settle the claim by paying a sum of Rs.1,00,000/- towards the Accident Benefit sum assured as per the terms and conditions of the policy with interest at the rate of 6% p.a. from the date of filing of this complaint to complainant No.1, within 2 months of receipt of this order.

3. It is further directed to pay a sum of Rs.15,000/- towards the deficiency of service and cost of the complaint within 2 months from the date of receipt of this order.

4. Fails to pay the same within the said time the complainant No.1 is entitled to 9% interest p.a. till its realization.”

1.1 11Top of Form

7. Being aggrieved by the District Forum order dated 26.02.2021, the OPs filed an Appeal and the State Commission vide order dated 08.07.2021 dismissed the Appeal with the following observations:

“4. There is no dispute that the insurance policy obtained in the year 2011 and the insured was paying the premium regularly till 2017. It is an admitted fact that the insured had not paid the premium which is due 23.06.2018 even after the grace period of 30 days thus policy stood in lapsed condition. During that time, the life insured died due to accidental slip in the river while going to her home after completion of her agricultural work. The Opposite Party has considered and settled the claim to the tune of Rs.1,00,000/-, but, denied to settle the accidental benefit. The reason for denial of the accidental benefit to the Complainant's wife is that the policy was not renewed well within time and it is in a lapsed condition, but, the repudiation is not acceptable because there is a provision in the terms and conditions of the policy that any lapsed policy can be revived within certain period from the date of lapse. As such, total rejection under the ground of lapse is not acceptable and amounts to deficiency in service. Once they have settled the claim by considering the eligibility, they cannot deny the accidental benefit. The District Commission has rightly awarded the amount after considering the terms and conditions of the policy. Hence, we found no valid grounds to admit the appeal. Hence, the following;

ORDER

The appeal is dismissed at the stage of admission.

The amount in deposit shall be transmitted to the District Commission for disbursement of the same to the complainant/s.”

8. Dissatisfied by the Impugned Order dated 08.07.2021, the OPs filed the instant Revision Petition No. 863 of 2021.

9. In his arguments, the learned Counsel for the Petitioners/OPs submitted that admittedly the premium was not paid on 23.06.2018 when it became due and even after the grace period of 30 days and the policy has lapsed. In the meanwhile, the insured died. Thus, the policy was not in force when the insurer died. Therefore, there cannot be any liability for payment of the accident benefit. He sought to allow the present Revision Petition and set aside the concurrent findings of the fora below and dismiss the complaint. He has relied upon the judgment of the Hon'ble Supreme Court in ***Life Insurance Corporation of India and Anr. Vs. Sunita, SLP (Civil) No.13868 of 2019, decided on 29.10.2021.***

10. On the other hand, the Respondents/Complainants did not appear despite service of notice and they were proceeded ex-parte vide order dated 19.02.2024.

11. I have examined the pleadings and associated documents placed on record, including the orders of the learned District Forum and the State Commission and rendered thoughtful consideration to the arguments advanced by the learned counsel for the Petitioners.

12. The Hon'ble Supreme Court in the case of *Life Insurance Corporation of India and Anr. Vs. Sunita, SLP (Civil) No.13868 of 2019, decided on 29.10.2021* has held as under:

“7. In order to appreciate the rival contentions raised by the learned counsels for the parties, apt would be to reproduce the relevant conditions of the policy in question. Relevant condition nos. 3, 4, and 11 read as under:

“3. Revival of Discontinued Policies: If the policy has lapsed, it may be revived during the life time of the Life Assured, but within a period of five years, from the due date of the first unpaid premium and before the date of Maturity, on submission of proof of continued incurability to the satisfaction of the corporation and the payment of all the arrears of premium together with interest compounding half yearly at such rates as may be fixed by the Corporation from time to time. The Corporation, reserves the rights to accept or accept with modified terms or decline the revival of Discontinued Policy. The revival of a Discontinued Policy shall take effect only after the same is approved by the Corporation and is specifically communicated to the proposer/Life Assured.

4 Non-forfeiture Regulations:

(a) If, after at least 3 full years premiums have been paid in respect of this Policy, any subsequent premiums be not duly paid, this Policy shall not be wholly void, but shall subsist as a Paid-up Value which shall be payable in case of death/Maturity and shall depend on the number of years for which premiums have been paid and shall be greater of a sum that bears the same ratio to the Maturity Sum Assured as the number of premiums actually paid shall bear to the total number of premiums originally stipulated in the Policy.

OR

The surrender value as per para 7 below assuming that the policy has been surrendered on the date of death/Maturity, as the case may be.

11. Accident Benefit (If opted for): *If at any time when this policy is in force for the full sum assured or reduced sum assured in case of partial surrender of the policy, the life assured, before the expiry of the policy term or the policy anniversary on which the age nearer birthday of the Life Assured is 70 years, whichever is earlier, is involved in an accident resulting in either permanent disability as hereinafter defined or death and the same is proved to the satisfaction of the Corporation, the Corporation agrees in the case of :-*

(a).....

(b) Death of the Life Assured: *to pay an additional sum equal to the Accident Benefit Sum Assured under this Policy, if the life assured shall sustain and bodily injury resulting solely and directly from the accident caused by outward, violent and visible means and such injury shall within 180 days of its occurrence solely, directly and independently of all other causes result in the death of the life assured.”*

8. *Now, so far as the facts of this case are concerned, it is not disputed that the husband of the complainant had taken the life insurance policy on 14.04.2011, that the next premium had fallen due on 14.10.2011 but was not paid by him, that the husband of the complainant met with an accident on 06.03.2012, that thereafter the premium was paid on 09.03.2012 and that he expired on 21.03.2012. It is also not disputed that at the time of making payment of premium on 09.03.2012, it was not disclosed by the complainant or her husband to the appellant-Corporation about the accident which had taken place on 06.03.2012. The said conduct on the part of the complainant and her husband in not disclosing about the accident to the corporation not only amounted to suppression of material fact and lacked bona fides but smacked of their mala fide intention, and therefore, the Accident benefit claim of the complainant was liable to be rejected on the said ground alone. It is well settled legal position that in a contract of insurance there is a requirement of Uberrima fides i.e. good faith on the part of the assured. The Supreme Court in case of Vikram Greentech (I) Ltd. V/s New India Assurance Co. Ltd. (2009) 5 SCC 599, while dealing with the contract of insurance held as under:-*

“16. *An insurance contract, is a species of commercial transactions and must be construed like any other contract to its own terms and by itself. In a contract of insurance, there is requirement of uberrima fides i.e. good faith on the part of the insured. Except that, in other respects, there is no difference between a contract of insurance and any other contract.*

17. *The four essentials of a contract of insurance are: (I) the definition of the risk, (ii) the duration of the risk, (iii) the premium, and (iv) the amount of insurance.*

Since upon issuance of the insurance policy, the insurer undertakes to indemnify the loss suffered by the insured on account of the risks covered by the insurance policy, its terms have to be strictly construed to determine the extent of liability of the insurer.

18. The endeavour of the court must always be to interpret the words in which the contract is expressed by the parties. The court while construing the terms of policy is not expected to venture into extra liberalism that may result in rewriting the contract of substituting the terms which were not intended by the parties. The insured cannot claim anything more than what is covered by the insurance policy. (General Assurance Society Ltd. v. Chandmull Jain (1966) 3 SCR 500, Oriental Insurance Co. Ltd. v. Sony Cheriyan AIR 1999 SC 3252 and United India Insurance Co. Ltd. v. Harchand Rai Chandan Lal (2004) 8 SCC 644)."

9. From the afore-stated legal position, it is clear that the terms of insurance policy have to be strictly construed, and it is not permissible to rewrite the contract while interpreting the terms of the Policy. In the instant case, condition no. 11 of the Policy clearly stipulated that the policy has to be in force when the accident takes place. In the instant case, the policy had lapsed on 14.10.2011 and was not in force on the date of accident i.e. on 06.03.2012. It was sought to be revived on 09.03.2012 after the accident in question, and that too without disclosing the fact of accident which had taken place on 06.03.2012. Thus, apart from the fact that the respondent-complainant had not come with clean hands to claim the add on/extra Accident benefit of the policy, the policy in question being not in force on the date of accident as per the condition no. 11 of the policy, the claim for extra Accident benefit was rightly rejected by the appellant-Corporation. Since, clause 3 of the said terms and conditions of the policy permitted the renewal of discontinued policy, the appellant-Corporation had revived the policy of the respondent-complainant by accepting the payment of premium after the due date and paid Rs. 3,75,000/- as assured under the policy, nonetheless for the Accident benefit, the policy had to be in force for the full sum assured on the date of accident as per the said condition no. 11. The said Accident benefit could have been claimed and availed of only if the accident had taken place subsequent to the renewal of the policy. The policy in the instant case was lying in a lapsed condition since 14th October, 2011 and, therefore, was not in force as on 06.03.2012, resultantly, the claim over Accident benefit was not payable to the respondent as per the conditions of the contract of insurance."

13. The key facts of the case establish that the insurance policy, initiated in 2011, had been regularly paid until 2017. However, the insured failed to pay the premium due on 23.06.2018, even after the 30-day grace period, resulting in the policy lapsing. Despite this, the complainants had already received a substantial sum of Rs.1,26,135/-, inclusive of the sum assured along with bonuses and other dues related to the policy.

14. The central issue at hand is whether the Complainants are entitled to claim the Accident Benefit under the policy while it was in a lapsed condition? As per the judgment of the Hon'ble Supreme Court in the case of *LIC of India Vs. Sunita (Supra)*, if a policy is not active, the claim for the Accident Benefit is not payable to the complainants as per the terms outlined in the insurance contract.

15. Considering the above discussion, it is evident that both the impugned order of the State Commission dated 08.07.2021 in Appeal No.378/2021 and the order dated 26.02.2021 passed by the District Commission in CC No.193 of 2019 are erroneous and thus set aside.

16. Therefore, Revision Petition No.863 of 2021 is allowed, and the claim of the Respondents/Complainants towards the Accident benefit is rejected accordingly.

17. Considering the circumstances of the case, there shall be no order as to costs. All pending applications, if any, are disposed of accordingly.

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AVM J. RAJENDRA, AVSM VSM (Retd.)
PRESIDING MEMBER