

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION ERNAKULAM
Dated this the 27th day of December 2024

Filed on: 13/12/2022

PRESENT

Shri.D.B.Binu
Shri.V.Ramachandran
Smt.Sreevidhia.T.N

President
Member
Member

C C. No. 574/2022

COMPLAINANT

Daisy, W/o.Joseph, Padayatti House, Poothamkutti, Mookkannur,
Thabore P.O., Ernakulam District, Pin-683 577.
(By Adv.Jino Jose Kallarackal, M/s.Paulson M.J & Associates, Alwaye-1)
Vs.

OPPOSITE PARTY

The Senior Divisional Manager, National Insurance Company Ltd.,
Divisional Office, CSI Square, Baker Hill, Kottayam-686 001

FINAL ORDER

Sreevidhia T.N., Member

1) A brief statement of facts of this complaint is as stated below:

The complainant had taken an insurance policy for the period from 28.11.2021 to 27.11.2022 from the opposite party. The complainant was admitted at Rajagiri Hospital, Aluva on 07.10.2022 for the treatment towards the replacement of right knee and was discharged on 12.10.2022. The complainant had to spent an amount of Rs.2,26,117/- as treatment expenses at Rajagiri Hospital. The complainant had submitted a claim before the opposite party and the complainant had received Rs.77063/- only. The policy amount is Rs.280,000/- including the cumulative bounus. The complainant states that he is eligible to get the balance amount of Rs.149054/- from the opposite party.

The complainant had approached the opposite party several times to get the full insurance amount. But the opposite party had not considered the claim of the complainant in proper way. Then the husband of the complainant had sent a notice to the opposite party on 17.10.2022 and the opposite party had received the notice. The opposite party had sent a reply notice to the complainant with baseless justification.

The complainant states that she has suffered huge mental agony, pain and other difficulties due to the deficient act of the opposite party. Hence the complainant had approached the Commission seeking orders directing the opposite party to pay the balance claim amount of Rs.149054/- with 12% interest till the date and to pay Rs.125000/- as compensation and cost of proceedings.

2) Notice

Notice was issued to the opposite party from this Commission on 22.12.2022. Upon notice opposite party appeared on 12.01.2023 and prayed time for filing version.

The notice sent to the opposite party seen served on 25.12.2022. The opposite party not filed their version in this case. Statutory time to file the version of the opposite party was expired on 25.01.2023. Due to the non-filing of version, the opposite party was set ex-parte as per the proceedings dated 20.09.2023.

3) Evidence

Evidence in this case consists of the proof affidavit filed by the complainant and the documentary evidence filed by the complainant which were marked as Exbt.A1 to A4. Evidence closed.

Heard the complainant. Argument notes also filed by the complainant.

4) The issues taken for consideration in this case are as follows:

- (1) Whether any deficiency in service or unfair trade practice is proved from the side of the opposite party towards the complainant?
- (2) If so, reliefs and cost?

The case of the complainant is that eventhough the policy amount is Rs.2,80,000/- including the cumulative bonus, the complainant had received only Rs.77063/- as per the claim filed before the opposite party towards the treatment expenses of the complainant at Rajagiri Hospital, Aluva. The complainant states that the opposite party is duty bound to pay Rs.2,80,000/- to the complainant as per the policy taken by the complainant for the period 28.11.201 to 27.11.2022.

Exbt.A1- is a copy of the policy card

Exbt.A2- is a copy of the Discharge summary

Exbt.A3- is a copy of the Hospital bills dated 12.10.2022.

ExbtA4- notice sent to the opposite party dated 17.10.2022

The complainant is the holder of 57060050211 0000834 policy issued by the opposite party. The complainant had availed this policy from the opposite party for meeting the treatment expenses for the period from 28.11.2021 to 27.11.2022. The complainant and her husband Mr.Joseph P.T. was insured as per the policy. The sum assured as per the policy was Rs.2,00,000/-. The complainant is also eligible to get a cumulative bonus of Rs.40000/- as per the policy.

As revealed by Exbt.A2, discharge certificate and Exbt.A1 policy the complainant was hospitalized for a period from 07.10.2022 to 12.10.2022, ie., within the policy period. As per Exbt.A3 bills, the total bill amount comes to Rs.226116.77/-. The complainant had claimed for the full amount. But instead of the full amount the complainant had received only Rs.77,063/- (Rupees Seventy seven thousand and sixty three only). The sum assured as per the policy was Rs.2,00,000/-. The policy amount is Rs.2,80,000/- (Rupees two lakhs eighty thousand only) including the cumulative bonus. So the actual balance amount due from the opposite party is Rs.1,49,054/-

The opposite party was appeared before the Commission on 12.01.2023. Notice sent to the opposite party seen served on 25.12.2022. The opposite party not filed version. Hence the opposite party was set as Ex-parte.

Being ex-parte, opposite party has not filed any documents. No contra evidence adduced by the opposite party. Since no contra evidence in this case, the contentions raised by the complainant stands unchallengeable before the Commission.

Eventhough ample opportunity was given to the opposite party to establish their part, and to contest the case, they did not turn up. The full claim of the complainant was denied on insufficient grounds and that is to be deemed as

deficiency in service. Hence the complainant is eligible to get compensation and cost of proceedings from the opposite party since the complainant has suffered mental agony, pain and other difficulties due to the deficient act of the opposite party.

The Hon'ble Supreme Court's ruling in United India Insurance Co.Ltd Vs.Pushpalaya Printers (2004 KHC 795) established that if there is any ambiguity or a term is capable of two possible interpretations one beneficial to the insured should be accepted.

In the light of the above observations made by the Commission, point No.(1) and (2) are found in favour of the complainant and the complaint is liable to be allowed and the following orders are hereby passed.

- 1) The opposite party shall pay the balance claim amount of Rs.1,49,054/- (Rupees One lakh forty nine thousand and fifty four only) to the complainant.
- 2) The opposite party shall also pay an amount of Rs.5000/- (Rupees five thousand only) as compensation to the complainant for the deficiency in service from their part towards the complainant.
- 3) An amount of Rs.5000/- (Rupees five thousand only) shall be paid to the complainant by the opposite party as cost of the proceedings.

The above order shall be complied with by the opposite party within 45 days from the date of acceptance of a copy of this order. If the order is not complied within 45 days, the amount ordered vide (1) above shall attract interest at the rate of interest 9% per annum from the date of order till the date of realization.

Pronounced in the open commission on the 27th day of December 2024.

Sreevidhya P.N., Member

D.B.Binu, President

V.Ramachandran, Member