NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

REVISION PETITION NO. 1838 OF 2019

(Against the Order dated 03/05/2019 in Appeal No. 397/2018 of the State Commission Uttar Pradesh)

1. ZONAL MANAGER, LIFE INSURANCE CORPORATION OF INDIA & ANR.
16/98, MAHATMA GANDHI ROAD,
KANPUR
UTTAR PRADESH
2. ZONAL MANAGER, LIFE INSURANCE CORPORATION OF INDIA
THROUGH THE ASSISTANT SECRETARY, Z.O. LEGAL CELL, LIFE INSURANCE COPORATION OF INDIA
HAZRATGANJ LUCKNOW
UTTAR PRADESH .....Petitioner(s)

Versus

1. SUNIL KUMAR & ANR.
S/O. YOGESH KUMAR, R/O. MOHALLA BANARSI DAS, THAND AND
DISTRICT- AURIAYA
UTTAR PRADESH
2. PRABHAT SHUKLA
S/O. RAMFAL SHUKLA, R/O. MOHALLA THADRAI THANA AND
DISTRICT-AURIYA
UTTAR PRADESH .....Respondent(s)

BEFORE:

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

FOR THE PETITIONER : FOR PETITIONERS : MR. LAKSHAY SAWHNEY AND MD. HUZAIFA, ADVOCATES

FOR THE RESPONDENT : FOR RESPONDENT NO.1 : MR. ANAND PRAKSH, ADVOCATE
FOR RESPONDENT NO.2 : NONE

Dated : 07 May 2024

ORDER

1. This Revision Petition No.1838 of 2019 challenges the impugned order of the learned UP State Consumer Disputes Redressal Commission, Lucknow (‘the State Commission’) dated 03.05.2019. Vide this order, the State Commission had dismissed Appeal No.397 of 2018 and affirmed the order of the District Consumer Disputes Redressal Forum, Auraiya (‘the District Forum’) dated 24.01.2018.

2. As per office report, there is one day delay in filing of the present Revision Petition and the same is condoned.

3. Brief facts of the case, as per the Complainant, are that he purchased LIC Jivan Anand With Profits (With Accident Benefit) policy from Petitioners-LIC No.265127388 dated 28.05.2010 with sum assured of Rs.2,00,000/-. The date of policy maturity was 28.11.2030. He paid the first half yearly premium of Rs.5,112/- to Opposite Parties (OPs) on 19.06.2010. At the time of purchase of the insurance policy, he was medically examined and all requisite forms were duly got filled up from him by the OPs. On being found medically fit, OPs issued the said policy. On 21.06.2010, the Complainant had met with an accident and he suffered 100% permanent disability. The FIR was also filed. He filed claim for sum assured with the OPs. However, the claim was repudiated on the ground of suppression of pre-existing disease.

4. In reply before the District Forum, OP-1 & 2 contended that the complainant suppressed the pre-existing disease while filling proposal form, which is violation of the terms and conditions of the Policy in question. Therefore, the OP1 and 2 was justified in repudiating the claim of the complainant. He sought to dismiss the complaint.

5. The learned District Forum vide order dated 24.01.2008, allowed the complaint and directed the Petitioners/OPs No.1&2 as under:

"ORDER

The complaint case for the recovery of Rs.7,02,000/- against opposite party No.1 and 2 is allowed. The opposite party shall also be liable to make the payment of interest @ 7% per annum on this amount from the date of institution of complaint case and till the exact date of realization of amount. The Opposite Party No.1 and 2 is hereby directed that in view of the above they may make the payment within the period of one month from the date of decision."

(Extracted from translated copy)

6. Being aggrieved by the impugned order, the Petitioners filed an Appeal before the State Commission. The learned State Commission, vide order dated 24.01.2018 directed as follows:

"I had considered the contentions/arguments of both the parties.

In accordance to medical report dated 19.07.2017 of D.M.R. Dr. Rajeev Mangal M.D. prior to 18.06.2010 the date of submission of proposal for obtaining insurance

policy the respondent/complainant was suffering with spinal bone disease. The report of D.M.R. dated 13.03.2010 is based on the documents prepared in free camp of Life Line Neuro spine clinic. The name of patient as Sunil Kumar is mentioned in this document and the disease of spinal bone is mentioned therein, but this document did not bears signature or thumb impression or sign of identification of respondent/complainant and for considering this fact there is no proper ground that this document is concerning to respondent/complainant and was prepared in the Free Camp. The address of respondent/ complainant is also not mentioned on this document. Alongwith this it is pertinent to mention that by producing affidavit by the scriber of this document (doctor) it has not been proved that this document is concerning to respondent/complainant Sunil Kumar. Therefore on the ground of this document it cannot be said that prior to filling of proposal form of insurance policy in question the respondent/complainant was suffering from spinal cord. In addition to this document, any evidence in regard to disease of respondent/ complainant could not be produced by appellant/opposite parties. The onus to prove this fact is on appellant/opposite parties that prior to filling of proposal form of insurance policy in question the respondent/ complainant was suffering with alleged disease, but on the basis of evidences available in the file the appellant/opposite has been failed to prove the same. Therefore the conclusion which has been concluded by District forum that the appellant/opposite parties could not proved that in past prior to obtaining insurance policy in question the respondent/complainant was suffering with spinal cord disease, is true and correct and is based on legal analysis of evidences.

The Ld. Counsel of Appellant/Opposite parties has relied on the following legal case laws:

1. Shanti Devi Vs. LIc 2016(3) CPJ 409 (NC)

2. Manju Bala Vs. LIc 2008 (4) CPJ 253 (NC)

3. LIC Vs. Raja Vasireddy Komalayalli Kamba & Ors. AIR 1984 SC 1014

4. Satwant Kaur Sandhu Vs. New India Assurance co. Ltd. 2009 (4) CPJ Page 8 (SC)

5. Budhiben Parabhai Vs. LIc 2010 (1) CPJ Page 92 (NC)

6. LIC of India Vs. Ramamani Patra 2015 (4) CPJ 529 (NC)

7. Usha Rani Gupta Vs. LIc 2013 (2) CPJ 257 (NC)

In view of aforesaid analysis, in the present appeal the benefit of above referred case laws produced by the Ld. Counsel for appellant/opposite parties cannot be given to the appellant/opposite parties, because the appellant/opposite parties could not prove

the alleged disease of respondent/ complainant with the evidences which are placed in the file.

On 24.06.2010 the Insurance policy of Jeevan Anand Laabh alongwith Accident Benefit in favour of respondent/ complainant has been issued by the appellant/opposite parties in which the date of starting is mentioned as 28.05.2010 and this policy was valid for the period upto 28.11.2030. Therefore, it is clear that the insurance policy issued to the respondent/complainant is prior to the date of alleged accident of respondent/complainant. Therefore the respondent/ complainant for the accident is entitled to receive compensation under Insurance Policy in question.

In accordance to certificate issued by Chief Medical Officer the permanent disability of respondent/ complainant is 100%.

On the basis of conclusion taken out from the aforesaid analysis it is clear that the appellant/opposite parties Life Insurance Corporation of India has improperly disallowed the insurance claim of respondent/complainant which is deficiencies in the services. Therefore by allowing the complaint case of respondent/complainant the judgment and order which had been passed by the District Forum is proper, and the produced Appeal being forceless is dismissed.

Both the parties will bear their own cost.

The amount deposited under Section 15 Consumer Protection Act, 1986 alongwith earned interest for disposal may be forwarded to the District Forum."

7. The learned counsel for the Petitioners reiterated the grounds stated in the Revision Petition and asserted that the Complainant had concealed the pre-existing disease and the repudiation of claim was justified as per terms and conditions of the insurance policy. He sought the impugned orders of the lower fora be set aside. He has relied upon the following judgments:

(a) LIC of India V.Ranjeet Singh, II (2017) CPJ 247 (NC);

(b) Reliance Life Insurance Company V. Jaya Wadhwani, SLP(Civil) No.10954/2019 decided on 03.01.2024;

(c) Export Credit Guarantee Corpn. of India V. Garg Sons International, (2014) SCC 686.

8. The learned Counsel for the Respondent/Complainant argued in support of the impugned orders passed by the learned District Forum and the State Commission.

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

10. The learned District Forum issued a well-reasoned order based on evidence and arguments advanced before it. The learned State Commission, after due consideration of the pleadings and arguments, determined that no intervention is warranted on the District Forum's order. This was primarily because, the grounds relied upon in the repudiation letter are not supported by leading any cogent and convincing evidence and no evidence has been led by the Petitioners-Life Insurance Corporation of India that the Complainant at any point of time had suffered any disease prior to the purchase of the policy which could be said to have been covered under the exclusion clause, to be terms as the pre-existing disease as per Clause 5.

11. Also, the issue revolves around the discrepancy in the quantum of compensation awarded i.e. Rs.7,02,000, while the sum assured under the insurance policy is Rs.2,00,000, along with accrued bonus.

12. Scrutiny of the policy No.265127388 issued on 28.05.2010 reveals that the total sum assured is Rs.2,00,000/- and the premium to be paid was Rs.5112/-. The Complainant had met with an accident on 21.06.2010 and unfortunately it resulted in 100% disability. In this regard, the condition of the policy reveals that:-

> *"**10. Accident Benefit**: If at any time when this policy is in force for the full sum assured, the Life Assured, before the policy anniversary on which the age nearer birthday of the Life Assured is 70, 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) Disability to the Life Assured (Note:** As per Hindi version of the policy, which is accurate)**:***
>
> *i) to pay in monthly installments spread over 10 years as additional sum equal to the Sum Assured under this Policy. If the policy becomes a claim before the expiry of the said period of 10 years, the disability benefit installments which have not fallen due will be paid along with the claim.*

ii) to waive the payment of future premiums.

The maximum aggregate limit of assurance under all policies taken under the plan on the same life to which benefits (1) and (ii) above apply shall not in any event exceed Rs 5,00,000.

The waiver of premium shall extinguish all options under this policy except as to such assurance, if any, as exceeds the maximum limit of Rs.5,00,000/- and which may have been kept in force by continued payment of premiums and the benefits covered by (b) of the clause

The disability above referred to must be disability which is the result of an accident and must be total and permanent and such that there is neither then nor at any time thereafter any work, occupation or profession that the Life Assured can ever sufficiently do or follow to earn or obtain any wages, compensation or profit. Accidental injuries which independently of all other causes and within 180 days from the happening of such accident, result in the irrecoverable loss of the entire sight of both eyes or in the amputation of both hands at or above the wrists or in the amputation of one hand at or above the wrist and one foot at or above the ankle, shall also be deemed to constitute such disability.

Immediately after the happening of the disability, full particulars thereof must be given in writing to the office of the Corporation where this Policy is serviced together with the then address and whereabouts of the Life Assured and within 180 days after the happening of the disability there must be given to the servicing Divisional Office of the Corporation in manner required by of proof of disability satisfactory to the Corporation and without any expense to the Corporation and thereafter similar proof must be given as and when required by the Corporation, of the continuation of such disability. Any Medical Examiner, nominated by the Corporation shall be allowed to examine the person of the Life Assured in respect of any disability claimed in such manner and at such times before and/or after the disability is accepted by the Corporation may require.

In the event of its being discovered at any time that a claim under this clause has been wrongly admitted, all premiums falling due after the Corporation's intimation to that effect shall be paid on due dates and further all premiums for which waiver was wrongly claimed and all installments of additional sum assured which have been paid shall be paid to the Corporation in one lump sum with interest at such rate as may be prevailing at the time of payment as if no disability had occurred, failing which:

(i) The benefits available under the policy shall stand reduced as if the policy has been discontinued as on the date from which premium have been waived on the payment of the first instalment of the additional sum assured, whichever is earlier and,

(ii) The instalments of additional Sum Assured already paid shall be treated as a debt against the said policy and shall be deducted with interest at such rate as may be prevailing at the time of payment from the proceeds of the policy.

b) Death of the Life Assured:

To pay an additional sum equal to the Sum Assured under this Policy, if the Life Assured shall sustain any 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 delay, directly and independently of all other causes result in the death of the Life Assured. However, such addition sum payable in respect of this policy shall not exceed Rs.5,00,000/-. ..."

13. It is the contention of the Complainant that he is entitled for disability benefit of Rs.5,00,000/- and policy benefit of Rs.2,00,000/- and thus total sum of Rs.7,00,000/-. However, the policy issued is a Life Insurance Policy, along with Accident and Disability Benefits. Para 10(a)(ii) of the terms and conditions reveal that the maximum aggregate limit of assurance under all policies taken under the plan on the same life to which benefits under Disability for Life Assured shall not in any event exceed Rs.5,00,000/-. However, the only policy that has been taken by the Complainant has sum assured limit of Rs.2,00,000/-. He has no other declared policy. The maximum limit of Rs.5,00,000/- is with respect to situation where the beneficiary has multiple policies for the same life assured and in those circumstances, as per the policy terms, the sum payable under Disability for the Life Assured shall not in any event exceed Rs.5,00,000/-. Therefore, as the Complainant had held only one policy the maximum sum assured payable is only Rs.2,00,000/- along with the bonus accrued thereon. The Hon'ble Supreme Court in ***United India Insurance Co. Ltd. v. Harchand Rai Chandan Lal, (2004)8SCC 644*** decided on 24.09.2004 has held that **"*Therefore, it is settled law that the terms of the contract has to be strictly read and natural meaning be given to it. No outside aid should be sought unless the meaning is ambiguous"***.

14. That the terms and conditions of the Policy are sacrosanct have been reiterated by the Hon'ble Supreme Court in ***Suraj Mal Ram Niwas Oil Mills Pvt. Ltd. Vs. United India Insurance Co. Ltd. (2010) 10 SCC 567*** and ***Canara Bank Vs. United India Insurance Co. Ltd. (2020) 3 SCC 455***. The observation/ order of Hon'ble Supreme Court in Suraj Mal (Supra) is reproduced below:-

"26. Thus, it needs little emphasis that in construing the terms of a contract of insurance, the words used therein must be given paramount importance, and it is not open for the court to add, delete or substitute any words. It is also well settled that since upon issuance of an insurance policy, the insurer undertakes to indemnify the loss suffered by the insured on account of risks covered by the policy, its terms have to be strictly construed to determine the extent of liability of the insurer. Therefore, the endeavour of the court should always be to interpret the words in which the contract is expressed by the parties."

15. Para 10(a)(ii) of the terms and conditions reveal that the maximum aggregate limit of assurance under all policies taken under the plan on the same life to which benefits under Disability for Life Assured shall not in any event exceed Rs.5,00,000/-. However, the only policy that has been taken by the Complainant is for maximum of Rs.2,00,000/- as assured limit. He has no other declared policy. The maximum limit of Rs.5,00,000/- is with respect to situations where the beneficiary has multiple policies for the same life assured and in those circumstances, as per the policy terms, the sum payable under Disability for the Life Assured shall not in any event exceed Rs.5,00,000/-.

16. Therefore, as the Complainant had held only one policy the maximum sum assured payable is Rs.2,00,000/-. Thus, the order of the District Forum and State Commission adding Rs.2,00,000/- as the maximum sum assured and further 5,00,000/- at accidental benefit is beyond the scope of terms and conditions of the insurance. Incidentally, even in the complaint dated 31.10.2017, the Complainant had not brought out as under which provision of the terms and conditions of the insurance policy, he was entitled for benefit of Rs.5,00,000/- other than merely stating as accidental benefit claim.

17. The sum assured under the insurance policy is Rs.2,00,000/- along with any accrued bonus. This amount represents the maximum benefit payable under the policy, in the event of the life assured's death or 100% disability suffered. The learned District Forum and the learned State Commission awarded compensation of Rs.7,02,000/-, which exceeds the sum assured and accrued bonus under the policy, suggesting that the awarded amount surpasses the contractual liability of the OPs.

18. Based on the deliberations above, I find some merit in the present Revision Petition and, therefore, allow the same in part. The impugned orders of the Fora below be modified to the extent that the Petitioners/ OP-1 and 2 are directed to pay the sum assured of Rs.2,00,000 and the accrued bonus along with simple interest @ 9% p.a. from the date of filing of the Complaint before the District Forum, till realization of entire dues by the Complainant, within a period of one month from the date of this order. In the event of delay, the simple interest applicable shall be @ 12% p.a. for such extended period.

19. Keeping in view the facts and circumstances of the present case, there shall be no order as to costs.

20. All pending Applications, if any, also stand disposed of accordingly.

.....

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