

CASE NO.:
Appeal (civil) 4091 of 2006

PETITIONER:
Oriental Insurance Company Ltd.

RESPONDENT:
Munimahesh Patel

DATE OF JUDGMENT: 12/09/2006

BENCH:
ARIJIT PASAYAT & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T
(Arising out of SLP (C) No. 19538 of 2004)

ARIJIT PASAYAT, J.

Leave granted.

Appellant calls in question legality of the judgment rendered by the National Consumer Disputes Redressal Commission, New Delhi (in short the 'Commission'). The Commission upset the order of the State Commission and held that the appellant was liable to pay to the respondent (hereinafter referred to as the 'complainant') a sum of Rs.5 lakhs together with interest @ 6% p.a. from the date of the complaint.

Factual position in a nutshell is essentially as follows:

Smt. Lalitha Devi Patel wife of the complainant had obtained a Janata Personal Accident Policy for a sum of Rs.5 lakh in August, 1998, for which a premium was paid and accepted and the policy was issued. The insured died on account of an accident by way of falling into a well and drowning. FIR was lodged, autopsy was performed and appellant was informed. Various documents were also furnished claiming payment in spite of the policy. When the appellant\026Company did not settle the claim, a complaint came to be filed before the Madhya Pradesh State Consumer Redressal Commission, Bhopal (in short 'the State Commission') alleging deficiency in service on the part of the appellant. State Commission after hearing the parties dismissed the complaint leaving the complainant to take appropriate proceeding for establishing his claim and for seeking the reliefs in the court of competent jurisdiction. Aggrieved by this order, appeal was filed before the Commission.

After hearing the parties, the Commission passed order dated 2.5.2002 allowing the complaint and setting aside the order of the State Commission. Since this order had been passed ex-parte against respondent, on an application moved by the respondent the earlier order was recalled and both the parties were given opportunity to present their case. It directed payment of the amount as noted above.

The Commission accepted that there was no dispute regarding genuineness of the policy. But it noted that there was dispute about disclosure made in the proposal form and

the information given. It accepted that she was not employed as stated in the proposal form. Commission did not consider it necessary to go into that question and held that though there may have been some information given which has no relation with the actual state of affairs, yet the factum of the accident resulting in death and policy was not in dispute and, therefore, the claim of the complainant was to be allowed.

In support of the appeal, learned counsel for the appellant submitted that the principle of good faith which is inherent in insurance was not there. The complainant was guilty of making false statement in the proposal form.

Learned counsel for the appellant has brought on record a copy of the proposal form in which it is mentioned that the respondent's wife i.e. the insured was a teacher. This is at variance with the actual copy of another form has also been produced and shows that the respondent accepted that she was a house wife. The State Commission, therefore, dismissed the appeal in view of the disputed factual position and directed the complainant-respondent to seek remedy, if any, available in any other appropriate forum. Learned counsel for the appellant further submitted that when there is suppression of material fact which is relevant to the coverage of policy, the respondent was not entitled to any relief and the Commission had accepted that she was not a teacher. He, therefore, contended that the respondent was not entitled to any relief.

Learned counsel for the respondent on the other hand submitted that no interference is called with the decision of the Commission. He also stated that no such proposal form as claimed by the appellant was submitted.

The Commission noted that the specific stand of the appellant was that there was mis-declaration in the proposal form and the false claim that the respondent's wife was a teacher which as now appears is not the correct position. It also accepted that she was really not a teacher.

Proceedings before the Commission are essentially summary in nature and adjudication of issues which involve disputed factual questions should not be adjudicated. It is to be noted that Commission accepted that insured was not a teacher. Complainant raised dispute about genuineness of the documents (i.e. proposal forms) produced by the appellant.

The Commission having accepted that there was wrong declaration of the nature of occupation of the person insured, should not have granted the relief in the manner done.

The nature of the proceedings before the Commission as noted above, are essentially in summary nature. The factual position was required to be established by documents. Commission was required to examine whether in view of the disputed facts it would exercise the jurisdiction. The State Commission was right in its view that the complex factual position requires that the matter should be examined by an appropriate Court of Law and not by the Commission.

Above being the position, the Commission was not justified to deal with the matter in the manner as was done. In our view, the directions of the State Commission were more appropriate keeping in line with the nature of dispute. Accordingly, the appeal is allowed but with no order as to costs.