

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**Bench: Justice Sudip Ahluwalia, Presiding Member****Date of Decision: 15th May 2024**

REVISION PETITION NO. 1058 OF 2017

(Against the Order dated 23/12/2016 in Appeal No. 994/2013 of the State Commission Andhra Pradesh)

LIFE INSURANCE CORPORATION OF INDIA ...Petitioner(s)**Versus****PITTALA POCHAMMA @ POSCHAMMA** ...Respondent(s)

REVISION PETITION NO. 1252 OF 2017

(Against the Order dated 27/01/2017 in Appeal No. 590/2013 of the State Commission Andhra Pradesh)

LIFE INSURANCE CORPORATION OF INDIA ...Petitioner(s)**Versus****GUGULOTH JYOTI @ LAXMI** ...Respondent(s)**Legislation:**

Section 2(1)(g) of the Consumer Protection Act, 1986

Subject: Revision petitions challenging the orders of the State Commission that affirmed the District Forum's directive to Life Insurance Corporation of India (LIC) to pay the insurance claims to the nominees of deceased policyholders despite the alleged lapse of policies due to non-payment of premiums.

Headnotes:

Consumer Protection - Insurance Law – Lapsed Policy – Liability of Insurer – Failure to Pay Premiums – Revision petitions against State Commission orders dismissing appeals and affirming District Forum orders directing the Life Insurance Corporation of India (LIC) to pay insurance claims. LIC contended policies lapsed due to non-payment of premiums post voluntary retirement of the insured. State Commission and District Forum held LIC and employer responsible for notifying insured about premium dues. Employer deemed agent of LIC; insured not penalized for employer's lapse. Revision petitions dismissed. [Paras 1-12]

Insurance Policy – Employer’s Role as Agent – Obligations of Insurer and Employer – Analysis – Supreme Court in Chairman, LIC of India v. Rajiv Kumar Bhasker held employer acts as agent of insurer in salary savings scheme. Insurer liable for omissions by employer regarding premium payments. Insurer cannot absolve responsibility due to employer’s failure to remit premiums. [Paras 9-10]

Decision – Revision petitions dismissed – Orders of State Commission affirmed – Employer’s default in premium remittance attributable to insurer – Insured entitled to policy benefits despite lapse. [Paras 11-12]

Referred Cases:

- Chairman, LIC of India v. Rajiv Kumar Bhasker, AIR 2005 SC 3087

Representing Advocates:

Mr. Ankur Goel for petitioner

ORDER

JUSTICE SUDIP AHLUWALIA, MEMBER

1. Revision Petition Nos. 1058 of 2017 and 1252 of 2017 have been filed against the impugned Orders dated 23.12.2016 and 27.01.2017 respectively, passed by the Ld. State Consumer Disputes Redressal Commission, Telangana in FA 590 of 2013 and FA 994 of 2013, vide which the Appeals filed by the Petitioner were dismissed and the Orders of the Ld. District Forum were affirmed.

2. The facts and question of law involved in these Appeals are similar except for variations in the individual attributes and details of the policyholders/insured(s). Therefore these Appeals are being disposed off by this common Order. However, for the sake of convenience, RP/1058/2017 is treated as the lead case, and the facts enumerated hereinafter are taken from the same.

3. The factual background in brief is that the Complainant is the wife and nominee of Late Pittala Shankar, also known as Shankariah, who was an employee of Singareni Collieries Company Limited and held policies with the Petitioner. During his lifetime, he acquired multiple policies from the Petitioner totaling a sum assured amount of Rs. 2,55,000/-. According to the Policy terms, in the event of the policyholder's death, the nominee was entitled to receive the "Sum assured along with bonus and entitled benefits". Tragically,

the Complainant's husband was murdered on 16.03.2008. Within a month of his death, the Complainant notified the Petitioner of his demise and submitted all the necessary documents along with the claim form. However, despite passage of a considerable period of time, the Petitioner did not fulfill the claim payment. In response to the delay, the Complainant issued a Legal Notice dated 13.09.2010, urging the Petitioner to expedite the processing of the claim. In its reply dated 18.09.2010, the Petitioner claimed not to have received any intimation and requested the submission of the original Policy bonds and the Death Certificate, which the Complainant perceived as a mere pretext to withhold payment. Aggrieved by the non-payment of the claim, the Complainant filed her complaint before the Ld. District Forum, Karimnagar.

4. The District Forum vide its Order dated 10.06.2013 allowed the Complaint and directed the Petitioner to pay to the Complainant the basic sum assured amount of Rs. 2,35,000/- and the additional sum assured amount of Rs. 2,35,000/- after deducting the loan amount and unpaid premiums, with interest @9% p.a. from the date of filing of the Complaint till the date of realization along with Rs. 1,000/- towards litigation costs. The Petitioner filed Appeal against the Order in the State Commission which dismissed the same and affirmed the Order of the District Forum. The relevant extracts of the impugned Order are set out as below -

“12) The point that arises for consideration is whether the impugned order as passed by the District Forum suffers from any error or irregularity or whether it is liable to be set aside, modified or interfered with, in any manner? To what relief?

13) It is not in dispute that the deceased life assured had obtained the above policies under salary savings scheme and it is also not in dispute that the deceased life assured accidentally died on 16.03.2008 and registering of a case by the police, Peddapalli. It is also not in dispute that the deceased life assured died accidentally on account of murder. The only dispute is that the policies obtained by the deceased life assured were under lapsed condition as on the date of his death and that the factum of his taking voluntary retirement was not informed to the Opposite party.

14) Though the learned counsel for the Appellant contends that they are not in receipt of premia for the above policies, they failed to whisper a single word whether the same is informed to the employer of the insured as well as the insured to pay the premia due. Admittedly, the policies in question were commenced on various dates, details of which set-out as under:

1. 682318642 DoC:28.03.1996
2. 682323009 DoC:28.09.1996
3. 682448136 DoC:28.08.1997
4. 683809095 DoC 15.09.2003
5. 683818568 DoC 28.03.2004
6. 683821457 DoC:28.08.2004
7. 683838046 DoC:15.02.2006

The policies are stated to have been in lapsed condition for non-payment of premia dues. Admittedly, the employer is not made as party to the proceedings and no objection is raised for the same by the Appellant. There is an obligation on the part of the Appellant to inform the employer of the deceased life assured as to the falling of premia due towards the policies, which it failed to. The death of the life assured occasioned on 16.03.2008, which is after his voluntary retirement from service on 31.05.2006. Had the Appellant informed the employer of the deceased life assured, the employer could have responded immediately and could have remitted the premia amount. From the averments of the counter, it is evident that there are gaps in payment of premia but not as hough that the policy premia was not received continuously. And the gap premia pertains to the year 1999, 2000, 2002, 2004 and 2005. What the Appellant Corporation is doing all these days when there were gaps in receipt of premia for the above policies is not known. It didn't took any pains in addressing a letter and informing the employer to remit the premium. The deceased life assured was under bonafide impression that the premium amount had been settled and paid.

15) In the above regard, we may state that the Hon'ble Supreme Court in Chairman, LIC of India Vs. Rajiv Kumar Bhasker reported in AIR 2005 SC 3087 considered the liability of the employer wherein it accepted the responsibility to collect premiums from its employees and remit the same their Lordships' opined

"In terms of the Scheme, significantly the employee for all transactions was required to contact his employer only. In view of our findings, the Corporation, thus, cannot be permitted to take a different stand so as to make the employee suffer the consequences emanating from the default on the part of the employer. If for some reasons, the employer is unable to pay the salary to the employees, as for example, its financial constraints, the employee may

be held to have a legitimate expectation to the effect that his employer would at least comply with its solemn obligations. Such obligations having been undertaken to be performed by this employer at the behest of the Corporation as its agent having the implied authority there-for, the Corporation cannot be permitted to take advantage of its own wrong as also the wrong of its agent. In any event, the employer was obligated to inform the employee that for some reason, he is not in a position to perform his obligation whereupon the latter could have paid the premium directly to the corporation."

Admittedly, in the case on hand, employer was not made as party and the Appellant never raised any objection for the same, may be under an impression that employer is its agent. No information is sought for by the Appellant from the employer as to what prevented the employer from not remitting the insurance premium for the gap period as stated above. We may state that for the fault of the employer, employee should not suffer. Equally the insurance company cannot be found fault with in view of the fact that it has informed and reminded the employer to send the premium amounts. However, the Appellant neither addressed any letters nor informed the deceased life assured that the policy stood lapsed. In the circumstances, we hold that employer and the Appellant are equally liable to pay the benefits that were accrued under the policies. In the circumstances, we are of the opinion that the District Forum has rightly come to the conclusion which we have excerpted above. We do not see any merite in the appeal. Accordingly, we answer the point framed for consideration at paragraph No.12, supra, against the Appellant and in favour of the Respondent.

16) In the result, the appeal fails and is accordingly dismissed but no costs."

5. Ld. Counsel for Petitioner has argued that the Life Assured had opted for voluntary retirement from his employer on 31.05.2006 and subsequently ceased making premium payments, resulting in the policy lapsing without being revived during his lifetime; That after retirement, the Life Assured no longer received a salary, making it impossible for the employer to pay premiums on his behalf and it was the responsibility of the Life Assured to maintain the premium payments after reviving the policy; That there was no evidence presented to confirm whether the Life Assured was receiving a salary from his employer; That the State Commission incorrectly held the Petitioner responsible for informing the Life Assured about the premium

payment default, especially considering that he had already chosen voluntary retirement.

6. This Commission has heard both the Ld. Counsel for Petitioner and perused the material available on record.

7. In support of the submission that the Policies in this case had lapsed as the periodical premiums had not been received in the backdrop of the fact for both the Complainants had taken voluntary retirement from their employers, due to which, in view of Clause No. 22 (2), the Insurance Policies stood lapsed. A true copy of the Policy concerning the deceased husband of the Respondent/Complainant in RP No. 1252 of 2017 has been filed on behalf of the Petitioner, and needless to say, provisions of the same are identical with the Policy pertaining to the Complainant in RP No. 1058 of 2017. The relevant Sub-Clause 2 of the Policy Clause No. 22 is set out as below –

“In the event of the life assured/ proposer leaving the employment of the said employer or the premiums ceasing to be so collected or the collected premium not remitted to the Corporation, the Life assured/ proposer must intimate the fact to the Corporation and in the event of the Salary Savings Scheme being withdrawn from the said employer, the Corporation shall intimate the fact to the life assured/proposer and all premiums falling due on and after the date of his/her leaving the employment of the said employer or cessation of collection of premiums or remittance thereof in the manner as aforesaid or withdrawal of the Salary Savings Scheme as the case may be, shall stand increased by the imposition of the additional charge for monthly payment that has been waived under the Salary Savings Scheme for monthly payment that has been waived under the Salary Saving Scheme at five percent of the premium exclusive of any premium charged for Accident benefit and any other extra premium charged.”

8. Ld. Counsel for the Petitioner has therefore contended that where the enhanced premiums were not received following cessation of employment of the two insured persons w.e.f.1.9.2005 in view of Office Memo dated 1.9.2005 issued by the employer “Singareni Collieries Company Ltd.”, which is Annexure-P7 in RP No.1252 of 2017, their Insurance Policies consequently stood lapsed on account of which the Petitioner/Insurance Corporation had no liability to satisfy the claims.

9. But the aforesaid contention was also raised before Ld. State Commission which however did not accept the same, and rightly so, because in view of a decision of the Hon'ble Supreme Court, it had been observed that the employer of the Life Assured in such a situation was to be regarded as an Agent of the Insurer/ Corporation. Consequently, the Life Assured/employee could not be penalised for any omission on the part of his employer in the matter of either reporting about the cessation of his employment, or otherwise regarding remission of the premium amounts to the Corporation periodically as required. The relevant observations of the Ld. State Commission in this regard are set out as below –

“16. There is a duty cast on the part of the Appellant Corporation to inform the policy holder as to the lapsed condition of the policy or else the gaps in the payment of premium, which it failed to and the only reason assigned for this is that as per letter of authorisation, there is a duty cast on the part of the life assured to make payment of premium regularly, admittedly, the Appellant failed to prove this letter. It didn't took any pains in addressing a letter and informing the employer to remit the premium. The deceased life assured was under bonafide impression that the premium amount had been settled and paid.

17) In the above regard, we may state that the Hon'ble Supreme Court in Chairman, LIC of India VS. Rajiv Kumar Bhasker reported in AIR 2005 SC 3087 considered the liability of the employer wherein it accepted the responsibility to collect premiums from its employees and remit the same their Lordships' opined

“In terms of the Scheme, significantly the employee for all transactions was required to contact his employer only. In view of our findings, the Corporation, thus, cannot be permitted to take a different stand so as to make the employee suffer the consequences emanating from the default on the part of the employer. If for some reasons, the employer is unable to pay the salary to the employees, as for example, its financial constraints, the employee may be held to have a legitimate expectation to the effect that his employer would at least comply with its solemn obligations. Such obligations having been undertaken to be performed by the employer at the behest of the Corporation as its agent having the implied authority there-for, the Corporation cannot be permitted to take advantage of its own wrong as also the wrong of its agent. In any event, the employer was obligated to inform the employee that for

some reason, he is not in a position to perform his obligation whereupon the latter could have paid the premium directly to the corporation.”

Admittedly, in the case on hand, employer was not made as party and the Appellant never raised any objection for the same, may be under an impression that employer is its agent. No information is sought for by the Appellant from the employer as to what prevented the employer from not remitting the insurance premium for the gap period as stated above and also from 08/2005 onwards. We may state that for the fault of the employer, employee should not suffer. Equally the insurance company cannot be found fault with in view of the fact that it has informed and reminded the employer to send the premium amounts. However, the Appellant neither addressed any letters nor informed the deceased life assured that the policy stood lapsed. In the circumstances, we hold that employer and the Appellant are equally liable to pay the benefits that were accrued under the policies. In the circumstances, we are of the opinion that the District Forum has rightly come to the conclusion which we have excerpted above. We do not see any merits in the appeal. Accordingly, we answer the point framed for consideration at paragraph No. 11, supra, against the Appellant and in favour of the Respondent.”

10. From his side, Ld. Counsel for the Petitioner has been unable to cite any case law to counter the aforesaid decision of the Hon’ble Supreme Court in “LIC of India VS. Rajiv Kumar Bhasker” (supra), and instead submitted that holding the Corporation responsible for any laches on the part of the employer “would be going too far”. But it is the view of the Hon’ble Supreme Court that when in such a situation the employer is to be regarded as an Agent of the Insurer/ Corporation, clearly the interest of the Life Assured would need to be protected.

11. For the aforesaid reasons, this Commission finds no grounds to interfere with the well-reasoned orders of the Ld. State Commission.

12. Both the Revision Petitions are therefore dismissed. No orders as to costs.

13. Pending application(s), if any, also stand disposed off as having been rendered infructuous.

*Disclaimer: Always compare with the original copy of judgment from the official website.