BEFORE THE CONSUMER DISPUTES REDRESSAL COMMISSION,RAJASTHAN,JAIPUR BENCH NO.1

FIRST APPEAL NO:845/2017

HDFC Ergo (Agro) General Insurance Co. Ltd. c/o Manager 6th floor, Leela Business Park, Andheri Kurla Road, Andheri (East) Mumbai & ors.

Vs.

Smt.Rasal Devi w/o Late Om Prkash r/o Naradhana, Didiakala, Tehsil Jayal, Distt. Nagaur.

Date of Order 5.2.2018

Reportable

Before:

Hon'ble Mrs. Justice Nisha Gupta- President

Mr. Prashant Mantri counsel for the appellants

Mr.J.M.Chaudhary counsel for the respondent

BY THE STATE COMMISSION (PER HON'BLE MRS. JUSTICE NISHA GUPTA,PRESIDENT):

आशुलिपिक
राज्य उपभोक्ता विवाद
राजस्थान, जयपुर

This appeal has been filed against the order passed by the District Forum, Nagaur dated 17.5.2017 whereby the claim is allowed against the appellant.

The contention of the appellant is that the deceased died a natural death hence, claim is not payable.

Per contra the contention of the respondent is that Om Prakash died due to snake bite and claim has rightly been allowed. No interference is needed.

Heard the counsel for the parties and perused the impugned judgment as well as original record of the case.

The contention of the appellant is that deceased died a natural death and claim is not payable and to support this contention investigation report Ex. A 3 is submitted whereas it was pleaded that forged documents are being prepared by Mr.Harendra Chaudhary and counsel for the appellant has submitted that Harendra Chaudhary is brother of the deceased. Ex. A 4 the information received from CHC Kuchera is submitted wherein it has been specifically mentioned that Om

अध्यक्ष
राज्य उपभोक्ता विवाद प्रतितोष आयोग
राजस्थान, जयपुर

Prakash name is interpolated in the record and so also his age and counsel for the appellant has rightly contended that the claim should have been dismissed.

Per contra the contention of the respondent is that Ex. 8 the prescription slip of Kuchera CHC clearly speaks that the deceased died due to snake bite.

A bare perusal of Ex. 8 clearly shows that the document is not reliable as doctor has not made any diagnosis rather after death of the person a certificate has been issued which is not the common practice of doctors in preparing prescription slips and further more when the deceased has died a unnatural death the concerned doctor has not referred the matter for postmortem. Ex. 10 panchnama has also been placed on record to justify the claim but no date has been mentioned of preparing the document and further more name of Rasal w/o Om Prakash is altered to Om Prakash s/o Manglaram and in panchnama no observations are been made by any of the person rather a conclusion has been mentioned which is not the purpose of panchnama. Ex.11 the concerned doctor has issued the certificate which also not contained any date of issue and no dispatch number has been mentioned and it is issued in reference of serial number 11969 whereas as per Ex. A 4 information received under Right to Information clearly shows that in OPD register on serial number 11969 there is interpolation hence Ex. 11 could not be relied. Ex. 12 & 13 are the documents prepared by Tehsildar as regard to cause of death. When Om Prakash died a unnatural death the concerned Sub-divisional Magistrate should have initiate the proceedings u/s 174 Cr. PC but no inquiry report is submitted and without any competence the sub-divisional officer has issued the certificate Ex. 14. All these documents are not reliable and the counsel for the appellant has rightly relied upon the judgment passed by this Commission in Hansi Devi Vs. LIC of India (I (2011) CPJ 191) where also the documents produced by the complainant were not reliable as not bearing any date. Same is the case here that the documents are not reliable and even as per Ex. A 4 not genuine one.

The appellant has also relied upon III (2009) CPJ 450 Firdous Enterprises Vs. Oriental Insurance Co. Ltd., I (2015) CPJ 165 (NC) Renu Gangwar Vs. Aviva Life Insurance Company where documents produced were fabricated and the

विवाद प्रतितोष
जयपुर

claim was found on the basis of fraud and forgery and dismissed. Same is the case here.

Further reliance has been placed on I (2006) CPJ 135 (NC) Shakuntala Solanki Vs. Oriental Insurance Co., III (2006) CPJ 302 Anju Vs. Life Insurance Corporation where no evidence was produced to show that death resulted from accident. No FIR was lodged, no postmortem report was submitted. Even there was no record of injuries which is the similar case here. No FIR was lodged. Dead body was not postmorted and even in the panchnama there is no mention of the fact that there is any sign of snake bite on the dead body and in the facts of the present case it can safely be concluded that deceased died a natural death and to just have the claim it has been designed as death by snake bite.

Hence, in view of the above the appeal is allowed and the order of the Forum below dated 17.5.2017 is set aside.

(Nisha Gupta)

President

nm