

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 3398 OF 2017

(Against the Order dated 05/07/2017 in Appeal No. 994/2016 of the State Commission
Haryana)

1. LIFE INSURANCE CORPORATION OF INDIA
DIVISIONAL OFFICE, ROHTAK SCO NO.3,4 & 5,
SECTOR-1,
ROHTAK
HARYANA

.....Petitioner(s)

Versus

1. JAGJIT & ANR.
R/O. NEW NETAJI NAGAR, WARD NO.-8, LINE PAR
BAHADUR GARH,
JHAJJHAR
HARYANA
2. TEJPAL RATHI
LIC AGENT, VILLAGE & PO-PARNALA,
BAHADUR GARH
HARYANA

.....Respondent(s)

BEFORE:

HON'BLE DR. INDER JIT SINGH, PRESIDING MEMBER

FOR THE PETITIONER : MR. ANOOP K. KAUSHAL, ADVOCATE

FOR THE RESPONDENT : MR. NISHANK TRIPATHI, ADVOCATE FOR R-1

Dated : 04 July 2023

ORDER

1. The present Revision Petition (RP) has been filed by the Petitioner against Respondents as detailed above, under section 21 (b) of Consumer Protection Act 1986, against the order dated 05.07.2017 of the State Consumer Disputes Redressal Commission, Haryana (hereinafter referred to as the 'State Commission'), in First Appeal No. 994/2016 in which order dated 30.08.2016 of District Consumer Disputes Redressal Commission, Jhajjar (hereinafter referred to as District Commission) in Consumer Complaint (CC) No. 208/2015 was challenged, inter alia praying to set aside the order dated 30.08.2016 of the District Forum, and order dated 05.07.2017 of the State Commission and dismiss the complaint.

2. While the Revision Petitioner (hereinafter also referred to as Petitioner) was Appellant and the Respondents were Respondents in the said FA/994/2016 before the State Commission the Revision Petitioner was Opposite Party and Respondents were Complainants before the District Forum in the CC No.208 of 2015. Notice was issued to the

Respondents on 26.03.2018. Parties filed Written Arguments/Synopsis on 06.12.2022 and 08.12.2022 (Respondent No.1) respectively.

3. Brief facts of the case, as emerged from the RP, Order of the State Commission, Order of the District Commission and other case records are that:-

(i) Complainant/Respondent No.1 –brother of the life assured filed complaint before the District Forum claiming that his brother Pawan Kumar obtained policy being No. 178564688 for Rs.15.0 lakhs on 18.11.2009. The life assured died on 30.11.2009 due to burn injuries caused by accused persons and in this respect FIR was filed on 30.11.2009 at Police Station, Sonepat, Haryana. The deceased had taken several life insurance policies. The complainant claimed the policy amount from the LIC. The Insurance Company repudiated the claim on 31.03.2012 on the ground that the deceased life assured Mr. Pawan Kumar did not disclose particulars of previous policy taken on 17.11.2009, which was necessary to be disclosed as per column 9 of the proposal form in the policy taken on 18.11.2009.

(ii) The complainant filed complaint before the District Forum. The District Forum vide order dated 30.08.2016 in Complainant No. 208/2015, allowed the complaint filed by the complainant.

(iii) The OP/insurance Company filed an Appeal before the State Commission against the order dated 30.08.2016 passed by the District Forum. The State Commission affirmed the order passed by the District Forum.

(iv) Aggrieved by the order dated 05.07.2017 passed by the State Commission in Appeal No. 994/2016, the OP/Insurance Company has filed the Appeal before this Commission.

4. Petitioner has challenged the order of the State Commission mainly/inter alia on following grounds:-

(i) The Fora below have erred on facts as well as in law and the orders are based on conjectures and surmises and have gone on misconceived notion on technical grounds, which is not a correct approach under the law.

(ii) The Fora below failed to follow the law laid down by the Apex Court in various judgments including the judgement of **Satwant Kaur Sandhu** wherein it is held that any fact which goes to the root of contract of insurance and has a bearing on the risk involved would be material. The life assured concealed previous policy taken on 17.11.2009 for Rs.15.00 lakhs and showing his annual income Rs.2.00 lakhs per annum whereas for all the polices premium comes to Rs.2,30,476/-.

(iii) Both the Fora below failed to appreciate that if the amount of policies exceed to Rs.35.00 lakhs, then the underwriter has to ask for special reports before issuing last policy like FBS, lipidogram, Hb1AC, Elisa test will be called.

(iv) District Forum has no territorial jurisdiction to try the case because the policy was obtained from the Branch Office Rohtak and the case was filed before the District Forum at Jhajjar. No cause of action arose in Jhajjar District. Merely the residence of insurance agent shown of Jhajjar would not in any way confer territorial jurisdiction.

(v) Both the Fora below failed to apply the law laid down by the Hon'ble Apex Court and National Commission, thus violated the judicial discipline and have relied upon two cases stated in the judgement are not similar and facts of those cases are totally different. The reliance placed is only misconceived. Thus the order of both the Fora are liable to be set aside.

5. Heard counsels of both sides. Contentions/pleas of the parties, on various issues raised in the RP, Written Arguments, and Oral Arguments advanced during the hearing, are summed up below.

5.1 It is contended by the Petitioner that Late Sh. Pawan Kumar did not disclose about the policy taken only the previous day, i.e. 17.11.2009, and on the contrary changed the address, name of the nominee and applied through different Agent and Development Officer of the Petitioner to mislead, defraud and evade the usual screening process before underwriting the risk. The disclosure of all previous policies is a fundamental and material question that must be answered by the proposer for the underwriters of the petitioner Corporation to assess the risk and insurable interest of the proposer in the background of all the accurate and correct factual information. Petitioner also contends that that all the information in the proposal form is very personal and in the present case, the deceased life assured was already a policy holder for about 12 years, and immediately the previous day, 17.11.2009 had obtained policy no. 178564627 but in the proposal form the life assured mentioned only three previous policies taken between 1997-2007 and concealed the policy taken on 17.11.2009. It is

further contended by the Petitioner that had the policies been disclosed, the total sum assured would have gone beyond Rs.35 lakh requiring the underwriter to call for special medical reports etc. and the decision has to be taken accordingly. The Petitioner contended that there was disparity between the annual income and total aggregate annual premium that become payable for all the five policies and just after 12 days, on 30.11.2009, Sh. Pawan Kumar died allegedly due to burn injuries by offence under FIR No. 438/2009. The claim was lawfully repudiated by the Petitioner Corporation on 31.03.2012 on the grounds of material concealment. It is also contended that the complaint was time barred as the claim was repudiated on 31.03.2012 and the complaint was filed on 14.10.2015. The District Forum allowed the complaint on 30.08.2016 and that order was upheld by the State Commission vide order dated 05.07.2017 in spite of want of territorial jurisdiction. Findings of both the Fora below are erroneous, illegal, beyond jurisdiction and settled precedents on the materiality of the questions raised by the insurer/Petitioner. Both the Fora below have held that since it was within the knowledge of the Petitioner Branch office, there was no obligation on the part of the proposer to have disclosed on 18.11.2009, the details of policy dated 17.11.2009. Both the Fora have not taken judicial notice that the act and omission of the proposer on 18.11.2009 was willful, deliberate, intentional and also fraudulent.

5.2 On the other hand the Respondent/Complainant contended that the District Forum allowed the complaint relying upon the case of this Commission in RP/4502/2010 titled as **Life Insurance Corporation of India Vs. Smt. Shahida Begum etc.** decided on 06.07.2011. It is further contended that plea of concealment being taken qua the policy bearing No. 178564627 dated 17.11.2009 having been issued by the same branch office and same officers of LIC and thus LIC had knowledge of the said policy and even if non-disclosure is to be assumed the same cannot be attracted in the present case. Keeping in mind the said aspects the State Commission was of the view that the stance presented by Jagjit Singh was justified and it was stated that, information is to be provided to a person or company, who has no prior knowledge. When LIC had knowledge regarding issuance of the previous insurance policy issued a day prior, fault cannot be attributed to the deceased regarding concealment of fact. In view of the same, the State Commission dismissed the Appeal filed by the LIC and the view expressed by the District Forum was upheld and directed the LIC to make a payment of Rs.15.00 Lakhs along with interest @9% p.a. from the date of death of the life assured.

6. We have carefully gone through the orders of the State Commission, District Forum and other relevant records. The grounds/contentions raised by Petitioner in the Revision Petition for challenging the order of the State Commission have been adequately and correctly addressed by the State Commission while coming to a finding that Petitioner is liable. State Commission has rightly agreed with the contention of the Respondent herein that reason behind non-disclosure of policy dated 17.11.2009 in the policy form for 18.11.2009 was that it was already in the knowledge of the Petitioner because same was

provided only a day prior to providing insurance policy dated 18.11.2009, i.e. the policy in question in this case by the same office and officers of Petitioner (LIC). State Commission has observed in this regard that information is to be provided to a person or company, who has no prior knowledge. When LIC-OP had knowledge regarding issuance of insurance policy dated 17.11.2009, and the time gap was only one day, the deceased had done no mistake and findings cannot be given that the life assured concealed the material facts from LIC. We tend to agree with these observations and findings of the State Commission and are of the view that there was no material concealment on the part of deceased/life assured. State Commission has also adequately dealt with the issue of territorial jurisdiction of the District Forum. Both State Commission and District Forum have given concurrent findings on the liability of Petitioner/LIC. We find no reason to interfere with such findings. As was held by the Hon'ble Supreme Court in **Rubi Chandra Dutta Vs. United India Insurance Co. Ltd.** [(2011) 11 SCC 269] that the scope in a Revision Petition is limited. Such powers can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order. In **Sunil Kumar Maity Vs. State Bank of India & Ors.** [AIR (2022) SC 577] held that "*the revisional jurisdiction of the National Commission under [Section 21\(b\)](#) of the said Act is extremely limited. It should be exercised only in case as contemplated within the parameters specified in the said provision, namely when it appears to the National Commission that the State Commission had exercised a jurisdiction not vested in it by law, or had failed to exercise jurisdiction so vested, or had acted in the exercise of its jurisdiction illegally or with material irregularity.*"

7. Keeping in view the entire facts and circumstances of the case, we find no infirmity jurisdictional error or material irregularity in the order of State Commission or District Forum calling for interference by this Commission at Revision Petition stage. State Commission has given a well-reasoned order and the same is upheld.

8. For the reasons stated hereinabove, and after giving a thoughtful consideration to the entire facts and circumstances of the case, various pleas raised by the learned Counsel for the Parties, the Revision Petition is dismissed with costs of Rs.15,000/- to be paid by Petitioner to the Respondent No.1 within two months of this order.

9. The pending IAs in the case, if any, also stand disposed off.

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DR. INDER JIT SINGH
PRESIDING MEMBER