

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, REWARI.

Consumer Complaint No:162 of 2021.

Date of Institution: 29.7.2021.

Date of Decision: 04.1.2024.

1. Daya Nand son of Dharam Pal
2. Rajesh Devi wife of Daya Nand,
3. Poonam widow of Dinesh Kumar,
4. Arohi minor daughter of Dinesh Kumar, minor through his other
Poonam residents of village Bhurthla, Tehsil Kosli, Distt. Rewari.

.....Complainants.

Versus

1. Manager United India Insurance company Ltd. branch Kanod Gate,
Rewari, Tehsil and Distt. Rewari,
2. Manager Pacs, Bhakli Tehsil and Distt. Rewari.

.....Opposite Parties.

Complaint Under Section 35 of Consumer Protection Act, 2019

Before: Shri Sanjay Kumar Khanduja.....President.

Shri Rajender Parshad..... Member.

Present : Shri Amit Kumar , Advocate for complainant.

Shri Dalip Arora, Advocate for opposite party no.1.

Shri Pawan Yadav, Advocate for opposite party no.2.

ORDER

{ *Per Sanjay Kumar Khanduja ,President* } .

Complainants being the legal heirs of late Dinesh Kumar have filed this present complaint against the opposite parties (for short the OPs) under Section 35 of The Consumer Protection Act, 2019 seeking the accidental death claim of Rs Four Lacs alongwith interest alongwith litigation expenses of Rs. 11000/-.

2. Brief facts of the case are as under :-

3. Late Dinesh Kumar (for short the deceased) was a KCC (Kisan Credit Card) account holder of OP no.2 Primary Agriculture Co-Operative Society vide account no. 2149 . On 13.12.2019, accidental death claim insurance premium was transferred from OP no.2 Bank to OP no.1 insurance company in order to cover the accidental death of deceased. Unfortunately, the deceased was grievously injured in a road side accident on 18.7.2020 and later on on 20.7.2020 he succumbed to injuries in Park Hospital Gurugram during his treatment. His dead body was subjected to autopsy vide autopsy report Ex. C-4. FIR on 19.7.2020 vide Ex. C-3 was lodged against the driver of offending unknown vehicle, who caused the accident with the motorcycle of deceased. FIR was lodged in PS Pataudi. The OPs have not paid the accidental claim amount to complainants despite the fact that complainants escalated the issue with OPs. Hence, this complaint

4. In the reply filed by the opposite party no.1, the claim of the complainant has been controverted. It is submitted that after the intimation of this accident, investigation was triggered. It deputed Auto Investigator to verify the facts, which vide its report Ex. OP-2 dated 26.2.2021 recommended to repudiate the claim, as the relatives of the deceased did not cooperate with the investigator, as they refused to show the spot, where the accident happened. They further refused to give medical treatment documents with a view to verify the same. Thus it was found to be a case of violation of condition no.2 of the insurance policy. Further there was delay of intimation to it about the accident. Denying any deficiency in service on its part, a final submission is made to dismiss the complaint.

5. Opposite party no.2 did not file reply in spite of availing sufficient opportunities including the last one and thus the defence of OP no.2 was struck off on 29.11.2022.

6. Both the parties in support of their respective case tendered in documentary evidence their respective affidavits and adduced certain documents. Reference of relevant record shall be given in this order.

7. We have heard both the counsel for the parties and gone through the case file thoroughly and after hearing the rival contentions of

both the parties, we are of the convinced view that the present complaint has merit and the same deserves acceptance for the reasons mentioned hereinafter.

8. During the course of submissions, learned counsel for the complainant has fairly submitted that the amount of personal accident cover available to the deceased was Rs. 50,000/- as the Rewari Central Co-operative Bank, the insured had taken Janta Personal Accident Group Policy to its account holders from OP no.2. During the course of submission, learned counsel for insurance company has placed on record copy of the policy schedule, which is taken on record as Mark "A" It is further an undisputed fact that the deceased was the account holder in OP no.2 Bank, which has failed to submit any reply to this complaint, as a result of which its defence was struck off on 29.11.2022. OP no.2 had promptly initiated the matter by giving information vide Ex. C-9 to OP no.1 about the cause of death of the deceased as well as by submitting his medical report and the death certificate of the deceased in order to sanction the insurance amount.

9. The report of investigator amply demonstrates that the deceased indeed met with an accident on 18.7.2020, when he was coming to his home from his workplace. Near Buwana bus stand, near Pataudi, a motorcycle rider Manoj, while riding motorcycle bearing

registration no. HR -16-T5704 rashly and negligently rammed his motorcycle into the deceased, as a result of which the deceased sustained critical injuries and he was brought to Park Hospital Gurugam on the same day, wherein on 20.7.2020 he died due to the said injuries.

10. His autopsy report was also collected by the investigator, which also shows that the cause of death of the deceased was accidental injuries. It nowhere shows that the deceased had consumed liquor, which demolished the myth of the investigator that the deceased might have consumed liquor or might have been under the influence of intoxication. A flimsy ground has been given by the investigator in its report Ex. OP-2 that the family members (complainants) did not cooperate with him in going to site of accident as well as in the hospital, enabling the investigator to collect the medical report of deceased.

11. In fact the investigator added to the trauma of the complainants by again shocking and agonizing them with the pain of visiting the site of the accident and in the hospital, where the deceased battled for his life for two days but ultimately lost the battle of life to death. Even otherwise, when the entire documentary evidence was available with the investigator of OP no.1, therefore, it defies logic and commonsense on the part of investigator to behave arbitrarily and

irresponsibly in the matter, who did not realize the plight of the complainants, who lost a young boy aged about 29 years, who was the source of moral and financial support to the complainants. He was married and complainant no.3 is his widow and complainant no.4 Arohi is his minor daughter. Complainants no.1 and 2 are his parents.

12. Though complainant no.1 was the nominee in the account of the deceased but since all the complainants have joined in this complaint, therefore, we have least hesitation in holding that complainant no.1, that it is OP no.1 , who has failed to honour the terms and conditions of the insurance company despite it was timely informed about the accident by the Manager of OP no.2. It is a baseless contention of OP no.1 that it is a case of violation of terms and conditions of the insurance policy by informing late in the matter and further that there was non-cooperation on the part of the family member of the deceased.

13. In the interest of justice, we allow this complaint against OP no.1 to pay Rs. 50,000/-, the accidental death claim to complainants no.2 to 4 being the first class heirs of deceased in equal shares. Complainant no.1 being father of deceased is the second class heir and even otherwise he being nominee was under a bounden duty to account for claim amount upon the death of deceased to the first clear legal heirs of the deceased after collecting the same from the insurance company. By

joining the complainants no.2 to 4 in this complaint, he has shown his intention of disbursal of the claim amount in favour of the said first class legal heirs.

14. Hence, as an upshot of our above discussion, the present complaint is allowed against opposite party no.1, whereby it is directed to pay Rs. 50,000/-, the accidental death claim to complainants no. 2 to 4 , alongwith compensation of Rs. 30,000/- on account of mental agony and harassment and Rs. 11,000/- as litigation expenses to the complainants, in equal shares, along with interest @ 9 % per annum with yearly rests from the date of filing of this complaint till the expiry of period of 45 days , from today, failing which the said amounts shall fetch interest @ 12% per annum with yearly rests from the date of filing of the complaint till realization. However, it is made clear that the share of minor complainant no.4 be deposited in the shape of FDR in a nationalized Bank, under the intimation of this Commission, till the attaining of her maturity.

15. If the order of this Commission is not complied with, then the complainant shall be entitled to file execution petition under section 71 of Consumer Protection Act, 2019 and in that eventuality, the opposite party may also be liable for prosecution under Section 72 of the said Act which envisages punishment of imprisonment, which may extend to three

years or fine upto Rs. one lac or with both. Copies of this order be sent to the parties free of costs as per rules and this order be promptly uploaded on the website of this Commission. File be consigned to the record room after due compliance.

Announced

4.1.2024.

President,
District
Consumer Disputes
Redressal Commission, Rewari.

Member,
DCDRC, Rewari.

(Nisha Yadav,S/Grapher)