

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 2513 OF 2019

(Against the Order dated 02/08/2019 in Appeal No. 61/2019 of the State Commission
Rajasthan)

1. BRANCH MANAGER, LIFE INSURANCE CORPORATION
OF INDIA & ANR.

REPRESENTED BY SECRETARY CO LEGAL (NEW
DELHI) BRANCH OFFICE, GANGAPUR CITY,
DISTRICT-SWAI MADHOPUR
RAJASTHAN

2. SENIOR DIVISIONAL MANAGER, LIFE INSURANCE
CORPORATION OF INDIA

DIVISIONAL OFFICE JAIPUR 2ND A-20, NANGI PLAZA
ANITA COLONY, NEAR GANDHINAGAR RAILWAY
STATION

JAIPUR
RAJASTHAN

.....Petitioner(s)

Versus

1. BANWARI LAL GUPTA

S/O. SHRI KAILASH CHANDRA GUPTA, R/O. SALEMPUR,
TEHSIL SAPOTARA

DISTRICT-KARAULI
RAJASTHAN

.....Respondent(s)

BEFORE:

HON'BLE DR. INDER JIT SINGH, PRESIDING MEMBER

FOR THE PETITIONER : MR. RAO RANJIT, ADVOCATE

FOR THE RESPONDENT : MR. SURYA PRAKASH GANDHI, ADVOCATE

Dated : 23 August 2023

ORDER

1. The present Revision Petition (RP) has been filed by the Petitioner(s) against Respondent as detailed above, under section 21(b) of Consumer Protection Act 1986, against the order dated 02.08.2019 of the State Consumer Disputes Redressal Commission, Rajasthan, Jaipur, (hereinafter referred to as the 'State Commission'), in First Appeal (FA) No. 61 of 2019 in which order dated 07.01.2019 of District Consumer Disputes Redressal Commission, Sawai Madhopur, Rajasthan (hereinafter referred to as District Forum) in Consumer Complaint (CC) no. 231 of 2017 was challenged, inter alia praying to set aside the order of State Commission in FA/61/2019 dated 02.08.2019.

2. While the Revision Petitioner(s) (hereinafter also referred to as OPs) were Respondents and the Respondent (hereinafter also referred to as Complainant) was Appellant in the said FA/61/2019 before the State Commission, the Revision Petitioner(s) were OPs and Respondent was complainant before the District Commission in the CC no. 231 of 2017. Notice was issued to the Respondent on 28.11.2019. Parties filed Written Arguments/Synopsis on 09.01.2023 (Petitioner/OP) and 11.01.2023 (Respondents/Complainant) 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: -

On 10.07.2010, the insured individual was a passenger aboard the Jan Shatabdi train when he allegedly became a victim of an attempted robbery, wherein he was administered a poisonous substance. Initially, he was admitted to the Railway Hospital in Gangapur city under the care of his father. However, due to the severity of his condition, he was subsequently transferred to SMS Hospital in Jaipur, where he tragically passed away on 11.07.2010. All requisite legal procedures, including the filing of an FIR, the conduct of a Panchnama, and the performance of a postmortem examination, were diligently undertaken. The Complainant, seeking rightful compensation, pressed for an amount of Rs. 10,00,000/- along with accrued bonuses and other relevant benefits from the OP. Formal notification of the demise of the insured individual was dispatched on 10.08.2010. However, on 27.06.2011, OP declined to disburse the claimed sum. In response, the Complainant initiated the initial complaint, numbered 94/2011, which subsequently met dismissal owing to a deficiency in the required documentation. Subsequent to this, a court directive dated 30.04.2014 instructed the Complainant to submit an application along with the requisite documents to the local office of OP. The claim met rejection through a correspondence dated 11.07.2014. Consequently, a second complaint, identified as no. 02/2015, was presented before the District Forum, Karauli. However, this complaint was dismissed on the grounds of jurisdictional insufficiency. The Complainant filed a third complaint, numbered 231/2017, before the District Forum in Sawai Madhopur on the date of 12.05.2017. This complaint asserted instances of gross negligence, disinterest, unfair trade practices, and service deficiency on the part of the OPs.

4. Vide Order dated 07.01.2019, in the CC no. 231 of 2017 the District Forum has dismissed the complaint. Aggrieved by the said Order dated 07.01.2019 of District Forum, Respondent/Complainant appealed in State Commission and the State Commission vide order dated 02.08.2019 in FA No. 61 of 2019 has set aside District Forum's Decision and allowed the appeal. Directed OPs to grant Rs.10,00,000/- to the complainant and other benefits of policy with 9% interest.

5. Petitioner(s) have challenged the said Order dated 02.08.2019 of the State Commission mainly on following grounds:

(i) The conclusive Police Final Report fails to ascertain any evidence of accidental death resulting from the administration of poison to the deceased via alcohol. Furthermore, the absence of any reported theft or robbery to law enforcement casts doubt upon the validity of the theory suggesting theft and external poisoning.

(ii) Notably, the deceased insurance holder was accompanied during the journey, as indicated by the presence of others in the train compartment. Additionally, the findings of the police investigation, which attribute the cause of death to a combination of sulphas and liquor, directly contradict the alleged assertions of liquor and poison administration by an external party. This incongruity strongly indicates a fabricated narrative, potentially motivated by a contemplated suicide.

(iii) The complaint, lodged in May 2017, is time-barred, and its dismissal is warranted due to its violation of the stipulated time limit and the principle of laches.

(iv) Given the petitioner's interpretation of this incident as a case of suicide, it is pertinent to apply Provision no. 6 of the policy. Furthermore, Condition no. 10(b)(1) of the aforementioned policy is also applicable, effectively releasing the insurance company from any obligation to provide an additional payout.

6. 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.

i. The counsel for the complainant (Respondent herein) argues that the Insurance Policy's stipulated terms and conditions explicitly guarantee a payout of Rs. 10,00,000/-. The demise of the insured individual, now deceased, occurred as a result of poisoning during train travel, substantiated by medical prescriptions from Railway Hospital, Civil Hospital Gangapur, and SMS Hospital Jaipur, corroborated by police information, an inquiry

officer's opinion, and the presence of alcohol and aluminum phosphide in the viscera report. This incident unequivocally qualifies as an accidental death and not a suicide. Furthermore, the presence of all these substances does not negate the possibility that they were administered by an unknown third party, thereby discrediting the notion of suicide. The absence of evidence presented by the OP supporting the claim of suicide further strengthens this argument. Additionally, there is no indication that the deceased faced issues with his job, family, or suffered from alcohol or drug-related problems.

- ii. The counsel for the OP (Petitioner herein) counters by asserting that the presence of Ethyl alcohol and Aluminium Phosphide, as indicated in the deceased's reports, clearly suggests that the insured individual was heavily intoxicated by alcohol and had ingested sulphas, thereby committing suicide. This act would trigger the application of Condition no. 6 and Condition no. 10(b)(1) of the policy, which absolves the insurance company from liability. The State Commission erred both in legal interpretation and factual understanding by allowing the complainant's initial appeal. It is essential to note that the train's reserved coach accommodated other passengers as well, making it highly implausible for anyone to forcibly administer poison into the deceased's alcohol. Furthermore, the Police Final Report did not conclude that poison was administered to the deceased within the alcohol and that cash and belongings were stolen. Equally significant is the absence of any complaint regarding such alleged theft lodged with the police, either by fellow passengers or the conductor. This lack of evidence surrounding the purported incident raises doubts about the validity of the claim and highlights the need for a more comprehensive examination of the circumstances surrounding the unfortunate demise.
7. In this case, District Forum has dismissed the complaint on the ground that deceased has died a suicidal death; the complainant has contended that death was accidental, some poisonous drink was administered to him during train journey by some unknown persons. He was found unconscious and thereafter died. State Commission after considering various facts have concluded that death was accidental. State Commission has also duly considered various case laws cited by the Insurance Company. State Commission has observed that 'Viscera' is also positive for the presence of aluminium phosphide and the Insurance Company has not submitted any evidence to prove that the deceased himself has consumed the aluminium phosphide.
8. We have carefully gone through relevant case records. Post-mortem report dated 11.07.2010 records that as per information furnished by Police, as per panchnama death cause due to illness from taking unknown poisonous material. As per remarks of medical officer opinion regarding cause of death reserved till receipt of chemical examination report. As per Medical Attendant's certificate dated 22.08.2010, the cause of death is

unknown poisoning. The report of State Forensics Laboratory states that on chemical examination of 'viscera', there was presence of aluminium phosphide and ethyl alcohol. Blood sample gave positive tests for ethyl alcohol, negative tests for metallic poisons and gave inconclusive result for aluminium phosphide. Final report of Police, based on results of investigation has recorded possible reason of death due to illness because of taking unknown poisonous material. There is nothing on record which will conclusively lead to a finding that it was a case of suicide, as has been contended by the Petitioner. Most of the documents lead to a conclusion that it was possibly a case of poisoning by unknown persons, hence a case of accidental death coverable under the policy.

9. It was held by Hon'ble Supreme Court in **Canara Bank vs. United India Insurance Co. Ltd. & Ors.** (2020) 3 SCC 455 that Insurance Policy must be read holistically so as to give effect to reasonable expectations of all parties, including the insured, coverage clauses to be read broadly, and ambiguity, if any, to be resolved in favour of the Insured, exclusions to be read narrowly. Hence, we do not find any reasons to interfere with the order of the State Commission. 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.*" We find no infirmity or material irregularity or jurisdictional error in the order of the State Commission, hence the same is upheld.

Accordingly, the RP is dismissed, parties to bear their respective costs.

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

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DR. INDER JIT SINGH
PRESIDING MEMBER