

**IN THE DELHI STATE CONSUMER DISPUTES  
REDRESSAL COMMISSION**

**Date of Institution: 31.05.2019**

**Date of hearing: 03.05.2023**

**Date of Decision: 12.01.2024**

**COMPLAINT CASE NO.- 696/2018**

**IN THE MATTER OF**

**MS. ANITA GUPTA,  
W/O Lt. MR. RAJ KUMAR GUPTA,  
R/O 26/15 SHAKTI NAGAR,  
DELHI- 110007.**

**(Through: Mr. Nitin Mehta, Advocates)**

...Complainant

**VERSUS**

**HDFC STANDARD LIC CO. LTD.,  
HAVING ITS OFFICE AT:  
17, 4<sup>TH</sup> FLOOR, VIJAYA BUILDING,  
BARAKHAMBA ROAD,  
NEW DELHI – 110001.**

**(Through: Mr. Rishab Raj Jain, Advocate)**

... Opposite Party

**CORAM:****HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. PINKI, MEMBER (JUDICIAL)****HON'BLE MR. J.P. AGRAWAL, MEMBER (GENERAL)**

Present: Mr. Arpit Rawat, counsel for the Complainant.  
None for the OP.

**PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL,**  
**PRESIDENT**

**JUDGMENT**

1. The present complaint has been filed by the Complainant before this commission alleging deficiency of service and unfair trade practice on the Opposite Parties and has prayed following reliefs: -
  - a. *Direct the Opposite Party for payment of insurance claim to the tune of Rs. 19,42,176/-,*
  - b. *Direct the Opposite Party to pay interest at the rate of 18% p.a. on the aforesaid amount of Rs. 19,42,176/- from the date of their declining of claim payment i.e., 15.11.2017 till date,*
  - c. *Direct the Opposite Party to pay compensation of Rs. 5,00,000/- arising due to harassment and mental agony caused to the Complainant together with interest @ 18% p.a. date of their declining of claim payment i.e., 15.11.2017 till date,*
  - d. *Any other order(s) that this Hon 'ble Court may deem fit and proper.*
2. Brief facts necessary for the adjudication of the present complaint are that the Complainant's husband had applied for HDFC Life Group

Credit Protect Plus Insurance Plan from the Opposite Party. Thereafter, the Opposite Party issued a HDFC Life group Credit Protect Plus Insurance Plan bearing policy no. PP000061 for a sum of Rs. 19,42,176/- towards health benefits starting from 29.03.2017 till 28.03.2022. The Complainant had also made full and final payment of premium amounting to Rs.95,652.17/- to the Opposite Party. Subsequently, in or around August 2017, the Complainant's husband was not feeling well and had body ache. Therefore, he was admitted to Fortis Hospital on 26.08.2017 and stayed there for 6 days and passed away on 01.09.2017 due to Diabetes Mellitus, Chronic Liver Disease and portal Hypertension in Fortis Hospital, Shalimar Bhag, New Delhi. After performing the final rites of her husband, the Complainant submitted claim form along with relevant documents. However, the Complainant shocked to received letter dated 15.1.2017 from the Opposite Party, wherein the Opposite Party declined the claim of the Complainant on the ground that the Complainant's husband was suffering from Diabetes Mellitus prior to the issuance of policy and the said fact was concealed by him. More so, the Complainant also availed the loan of Rs. 55,30,000/- from RBL Bank, which was insured by the Opposite Party. After demise of the husband of the Complainant, the Opposite Party settled the same but on the other hand, it refused to give claim of the Complainant. The Complainant also sent legal notice dated 06.04.2018 for the recovery sum assured of Rs. 19,42,176/- but was of no avail. Thus, left with no other option, the Complainant alleging Deficiency in Service and

Unfair Trade Practices by the Opposite Party has approached this commission.

3. The Opposite Party has contested the present case and has raised some preliminary objections as to the maintainability of the complaint case. The counsel for the Opposite Party submitted that the present complaint involves complicated question of facts and law, which cannot be adjudicated in a summary procedure. He further submitted that the present complaint is filed without any cause of action.
4. The counsel for the Opposite Party further submitted that the complainant's husband concealed the fact that he was suffering from diabetes mellitus and hypertension subdural hematoma at the time of obtaining the policy, therefore, the repudiation of the claim was justified as per terms and conditions of the said policy regarding pre-existing disease.
5. Both the parties duly filed their Evidence by way of Affidavit in order to prove their averments on record.
6. We have perused the material available on record and heard the arguments of the counsel for both the parties.
7. The first issue to be adjudicated is *whether the Complainant has cause of action to approach this commission*. It is imperative to refer to Section 24A of the Consumer Protection Act, 1986 wherein it is provided as under:-

***“24A. Limitation period.-***

***(1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.***

*(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the Complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint as this such period:*

*Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay.”*

8. Analysis of Section 24A of the Consumer Protection Act, 1986 leads us to the conclusion that this commission is empowered to admit a complaint if it is filed within a period of two years from the date on which cause of action has arisen.
9. The fact that the Complainant had taken scheme member of HDFC Life Group Credit Protect Plus Plan bearing no. PP000061 (Member No: 04624, LAN 10470914, claim no: PC057956) from the Opposite Party is not disputed by the parties. It is further not disputed that the claim of the Complainants was rejected vide letter dated 15.11.2017 by the Opposite Party. It is clear from the copy of the Insurance Policy filed by the Opposite Party that the present Complainant is the nominee of the insured i.e., Ms. Anita Gupta. Therefore, the Cause of Action arose in favour of the Complainant when the claim was repudiated by the Opposite Party vide letter dated 15.11.2017 and the present Complaint is filed within 2 years from the date of repudiation letter on 31.05.2018. Consequently, the contention of the Opposite Party that the Complainant has no Cause of Action against it is answered in the negative.

10. *The second question for consideration before us is whether the present case involves complicated question of facts and law which cannot be decided in summary procedure adopted by this commission.*
11. The Consumer Protection Act, 1986, came into being in order to protect the interests of *Consumers* who are affected by the acts of the service providers, who in order to attract the Consumers, tend to make lucrative offers but when it comes to actually providing the offered services, they take a step back.
12. Deficiency has been defined under section 2 sub-clause (g) which reads as follows:
- “(2) (g)"deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;”*
13. Returning to the facts of the present complaint, it is clear that the Complainant availed the services of the Opposite Party by purchasing said insurance policy. Thereafter, demise of the Complainant's husband, the Complainant approach the Opposite Party for sum assured. However, the same was rejected/repudiated by the Opposite Party vide letter dated 15.11.2017. Aggrieved by which, the Complainant has filed the present case and sought recovery of the claim and compensation suffered by her. Since the only allegation against the Opposite Party is repudiation of claim of the Complainant,

we do not see any complication of facts and law to decide the present case.

14. Moreover, nothing cogent has been brought on record by the Opposite Party which would reflect that there are such complicated questions involved which could not be settled on the basis of the pleadings filed on behalf of the contesting parties. Consequently, we are of the view that the present complaint falls within the four corners of the jurisdiction of this commission and there is no bar with respect to the jurisdiction of this commission to entertain cases related to the compensation with respect to repudiation of claim of the Complainant.
15. The *next question for consideration before us is whether the insured i.e., Complainant's husband deliberately concealed the material fact of pre-existing disease i.e., diabetes mellitus and hypertension subdural hematoma at the time of obtaining the said policy.*
16. We deem it appropriate to refer to the dicta of the Hon'ble National Commission in *Life Insurance Corporation of India Vs. Sunita & Others* reported at *2020 SCC OnLine NCDRC 710*, wherein it has been held as under:

*“7. We have heard the learned counsel of both the parties and perused the material on record.*

*8. As per the death summary, the death was due to a sudden cardiac arrest and inspite of best resuscitative measures, the patient could not be revived. We note both the fora have arrived at concurrent findings and allowed the complainant.*

*9. In the present case, the deceased assured was suffering from diabetes mellitus and chronic liver disease when bought to the hospital. But, the death was due to cardiac*

*arrest. In our view the cause of death is nowhere connected to his pre-existing disease. Our view dovetails from the decision of Hon'ble Supreme Court in the Civil Appeal No. 8245 of 2015 titled **Sulbha Prakash Motegaoneker v. Life Insurance Corporation of India**, decided on 05.10.2015, wherein it was observed that suppression of information regarding any pre-existing disease, if it has not resulted in death or has no connection to cause of death, would not disentitle the claimant for the claim.*

*10. We find the Orders of the District Forum and the State Commission to be well appraised and well-reasoned. The State Commission concurred with the findings of the District Forum. We note in particular the extracts of the respective observations made by the two fora, quoted in paras 4 and 5 above. Within the meaning and scope of section 21(b), we find no grave error in appreciating the evidence by the two for a below, as may necessitate re-appreciation of the evidence in revision. We find the award made by the District Forum (quoted in para 4 above), and as affirmed by the State Commission, to be just and appropriate. We find no jurisdictional error, or a legal principle ignored, or miscarriage of justice, as may necessitate interference in the exercise of the revisional jurisdiction of this Commission.*

*11. The revision petition, being misconceived and devoid of merit, is dismissed.”*

17. From the aforesaid dicta of the Hon'ble National Commission, it flows that only the existence of a pre-existing disease is not sufficient to repudiate the claim and the death of the Insured should actually occur due to the pre-existing disease.

18. We further deem it appropriate to refer to **Revision Petition No. 4461 of 2012** titled **Neelam Chopra Vs. Life Insurance Corporation of**



**India & Ors.** dated **08.10.2018**, wherein the Hon'ble NCDRC has held as under:

*“So far as the life style diseases like diabetes and high blood pressure are concerned, Hon'ble High Court of Delhi has taken the following view in **Hari Om Agarwal Vs. Oriental Insurance Co. Ltd., W.P.(C) No.656 of 2007**, decided on 17.09.2007 :*

*"Insurance- Mediclaim-Reimbursement- Present Petition filed for appropriate directions to respondent to reimburse expenses incurred by him for his medical treatment, in accordance with policy of insurance- Held, there is no dispute that diabetes was a condition at time of submission of proposal, so was hyper tension-Petitioner was advised to undergo ECG, which he did- Insurer accepted proposal and issued cover note- It is universally known that hypertension and diabetes can lead to a host of ailments, such as stroke, cardiac disease, renal failure, liver complications depending upon varied factors- That implies that there is probability of such ailments, equally they can arise in non-diabetics or those without hypertension- It would be apparent that giving a textual effect to Clause 4.1 of policy would in most such cases render mediclaim cover meaningless- Policy would be reduced to a contract with no content, in event of happening of contingency- Therefore Clause 4.1 of policy cannot be allowed to override insurer's primary liability- Main purpose rule would have to be*

*pressed into service- Insurer renewed policy after petitioner underwent CABG procedure- Therefore refusal by insurer to process and reimburse petitioner's claim is arbitrary and unreasonable- As a state agency, it has to set standards of model behaviour; its attitude here has displayed a contrary tendency- Therefore direction issued to respondent to process petitioner's claim, and ensure that he is reimbursed for procedure undergone by him according to claim lodged with it, within six weeks and petition allowed."*

*11. From the above, it is clear that the insurance claim cannot be denied on the ground of these life style diseases that are so common."*

19. The aforesaid dicta make it amply clear that the repudiation of the claim cannot be made on the ground that the existence of common life style disease including diabetes.
20. From the aforesaid two pronouncements of the Hon'ble National Commission, it is abundantly clear that firstly, the Insurance Company cannot repudiate the claim if the death of the deceased is not caused due to the pre-existing disease, secondly, we do not find any document which shows us that the insured was suffering from diabetes at the time of obtaining of the said policy and even if it was to be presumed that there existed a pre-existing disease like diabetes, which is a common life style disease, the repudiation cannot be on that basis also. In toto, there is no justification provided by the Opposite Party, which is in consonance with the well-established law, to repudiate the claim of the Complainant.

21. Hence, we find that the Opposite Party is deficient in providing its services to the Complainant and rejecting the claim vide letter dated 15.11.2017 was not in consonance with the law settled by the Hon'ble Apex Court and Hon'ble National Commission.
22. Keeping in view the facts of the present case and the extensive law as discussed above, we direct the Opposite Party to pay Rs.19,42,176/- along with interest as per the following arrangement:
- A. An interest @ **6 %** calculated from the date on which the claim was repudiated by the Opposite Party i.e., **15.11.2017** till **12.01.2024** (being the date of the present judgment);
  - B. The rate of interest payable as per the aforesaid clause (A) is subject to the condition that the Opposite Party pays the entire amount on or before **12.03.2024**;
  - C. Being guided by the principles as discussed above, in case the Opposite Party fails to pay the amount as per the aforesaid clause (A) on or before **12.03.2024**, the entire amount is to be refunded along with an interest @ **9% p.a.** calculated from the date on which the claim was repudiated by the Opposite Party and till the actual realization of the amount.
23. In addition to the aforesaid and taking into consideration the facts of the present case, the Opposite Party is directed to pay a sum of
- A. Rs. 1,00,000/- as cost for mental agony and harassment to the complainant; and
  - D. The litigation cost to the extent of Rs. 50,000/-.

24. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.
25. The judgment be uploaded forthwith on the website of the commission for the perusal of the parties as well as forwarded to the corresponding E-mail addresses available on the record i.e. nitinmehta69@gmail.com (Complainant).
26. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)  
PRESIDENT**

**PINKI  
MEMBER (JUDICIAL)**

**(J.P. AGRAWAL)  
MEMBER (GENERAL)**

Pronounced On:  
**12.01.2024**