

**District Consumer Disputes Redressal Commission-I (North District)**

[Govt. of NCT of Delhi]

Ground Floor, Court Annexe -2 Building, Tis Hazari Court Complex, Delhi- 110054

Phone: 011-23969372; 011-23912675 Email: confo-nt-dl@nic.in

**Consumer Complaint No.:210/2017**

In the matter of

**Sh. Karan Khatri****S/o Sh. Om Prakash Khatri,****143A, VP Block, Pitampura,****Delhi-110034.**

...

Complainant

Vs

**LIC of India****Delhi Divisional Office II****9<sup>th</sup> floor, Scope Minar,****Laxmi Nagar, Delhi-110092,****Also at:****327, 12/1 Jeevan Raksha Bldg.****Asaf Ali Road, Near Kamla Market,****New Delhi-110002**

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Opposite Party

**ORDER****01/02/2024****Ashwani Kumar Mehta, Member:**

1. The present complaint has been filed under Section 12 of the Consumer Protection Act, 1986. The brief details of facts, as alleged by the Complainant in the Complaint in hand, are that:-

- a. Smt. Sharda Khatri, DLA/ mother of the complainant had taken a policy no. 126984064 from the Opposite Party for total sum assured Rs.2 lakhs premium of Rs.9608/- and date of commencement of policy was 28.12.2013 and date of commencement of risk was 31.12.2013.
- b. the complainant is/was the nominee in the said policy.
- c. at the time of taking policy, complainant's mother/insured was not suffering from any kind of disease or any kind of predeceased.
- d. unfortunately the policy holder/mother of the complainant fell severally ill and got admitted in LNJP Hospital on 21.02.2014 and during treatment, she expired on 28.02.2014 in the said LNJP Hospital vide death certificate registration no. MCDL0LIR-0214-00465416 and C.R. NO.211184.
- e. at the time of death of complainant's mother, the said policy was in operation, thus, the complainant visited/approached the office of OP for passing and releasing of insurance amount/ claim. On demand from Opp. Party office, the complainant submitted all the necessary papers for the above said claim for completing the formality.
- f. the complainant has been informed verbally that his claim has been rejected on the ground that the complainant's mother was suffering from some pre-existing disease.

2. The complainant has filed the following documents in support of his complaint:-

- a. *Copy of the insurance policy*
- b. *Copies of the various other documents pertaining to the treatment of the insured / deceased as well as correspondence with the opposite party*
- c. *Death certificate of deceased*
- d. *Complete death summary*
- e. *Copy of legal notice dated 09.08.17 with postal receipt*

3. On repudiation of the claim, the instant complaint has been filed praying for directions to OP to:-

- i. *pass the claim of Rs.2,00,000/- along with the interest @ 15% p.a. from the date of payment till the date of its realization in favour of the complainant;*
- ii. *pay a sum of Rs.5,00,000/- being compensation towards mental agony, loss of time, loss of work etc. suffered by the complainant due to deficiency in service on the part of the opposite party;*
- iii. *pay a sum of Rs.11,000/- towards litigation expenses to the complainant.*

4. Accordingly, notice was issued to the OP and in response, the OP has filed its reply admitting that deceased life assured had paid initial first premium and policy was in force as on the date of death of life assured as per the details of the policy given below:-

Policy No.:	126984064	Sum Assured: Rs. 2 Lakhs
Date of commencement:	28.12.2013	Risk date: 31.12.2013
Date of death:	28.02.2014	T/T-Mode: 165/18-yearly

5. On the allegations levelled in the complaint, the OP has contended that the complainant has not come before this commission with clean hands and has concealed and suppressed the true and material facts. The claim of the complainant was repudiated on 24.03.2017 and an option was given to the claimant that in case, he is not satisfied with the decision of the opposite party, he may send representation to the Zonal office of the opposite party as appellate authority for consideration. The complainant has not approached the appellate

authority and approached this commission though there is no deficiency of service on the part of opposite party.

6. It has further been contended by the OP that the deceased life assured was a diagnosed case of DM-T2 (Diabetes type-2),CKD-ESRD(Chronic Kidney disease), Severe Anaemia, Metabolic Acidosis Dyspnea during her previous admission from 07.07.2012 to 21.07.2012 as in-patient as per Claim Form 3816 [Hospital Treatment Certificate] duly completed by the Lok Nayak Hospital, Delhi. It has been contended by the OP that before proposal for assurance, the deceased life assured [DLA] had suffered from serious diagnosis viz. DM-T2, CKD-ESRD, Severe Anaemia, Metabolic Acidosis Dyspnea for which she consulted the Doctor/Hospital but did not disclose the same in her proposal /personal statement signed on 31.12.2013 though she had personal knowledge of the same and gave false answers with regard to her health. Therefore, the competent Authority decided to repudiate the death claim liability on the ground of suppression of material facts regarding prior adverse [critical] health status of deceased life assured [DLA] based on cogent evidence and the repudiation decision was duly communicated to the complainant. Therefore, the complaint is liable to be dismissed with heavy costs.

7. The OP has also filed copies of (i) claim repudiation letter dated 24.03.2017, (ii) proposal form (iii) letter dated 04.02.2017 to claimant (iv) letter dated 19.12.2016 to M.S., Lok Nayak Hospital (v) letter dated 03.11.2016 and 25.11.2016 to M.S. Lok Nayak Hospital and (vi) letter dated 01.02.2017 from Lok Nayak Hospital alongwith Medical Attendant's certificate & certificate of Hospital treatment alongwith the reply.

8. The Complainant has also filed rejoinder, evidence by way of Affidavit & written arguments contending that if the mother of complainant was suffering from any kind of pre-existing disease, then why the Opposite Party had issued the policy in her favour and if she had intentionally taken the policy, then she might have not taken the policy of Rs.20 lakhs or more instead of Rs.2 lakh. It has further been stated that the OP had sought complete death history of the deceased namely Smt. Sharda Khatri and the complainant submitted the requisite document to OP which is annexed with the complaint as CW- 1/F (Colly). In the death history, it is clearly mentioned that the cause of death of the deceased /policy holder was 'Heart Attack' and the 'heart attack' is not at all a pre-existing disease, which clearly shows that the complainant's mother was not suffering from any heart problem or any other pre-existing disease as alleged by the O.P. while rejecting the claim of the complainant.

9. The OP has also filed evidence by way of Affidavit & written arguments. The OP has referred/filed copies of the following judgments of Hon'ble Supreme Court:-

I. *in the matter of Branch Manager, Baja Allianz Life Insurance Co. Ltd. and Ors. vs. Dalbir Kaur in CA No.3397/2020 decided on 09.10.2020.*

II. *in the matter of Reliance Life Insurance Co. Ltd. Vs. Rekhaben Nareshbhai Rathod in CA No.4261/2019, decided on 24.04.2019 [AIR 2019 Supreme Court 2039]*

10. Accordingly, the complaint has been examined taking into consideration the facts of the case and averments/documents/Evidence put forth by the complainant & OPs and it has been observed that the allegations/averments of the complainant are not sustainable in view of the medical records of the treatment of the deceased life insured and judgments of the Hon'ble Supreme Court placed by the OP before us.

11. It is a settled position that the insured was under obligation to fill up the details correctly in the proposal form so that the proposal for insurance would have been rejected or the insured would have been subjected to further investigations before providing the policy cover, by the OP. On the basis of reply and documents filed by the OP, it is proved that the deceased had filled incorrect information in the proposal form, meant to obtain the insurance policy in question. Therefore, we are of a considered opinion that the OP has rightly repudiated the claim of the complainant and the complaint being devoid of merits is dismissed.

12. Order be given dasti to the parties in accordance with rules. Order be also uploaded on the website. Thereafter, file be consigned to the record room.

**ASHWANI KUMAR MEHTA**

**Member**

**DCDRC-1 (North)**

**DIVYA JYOTI JAIPURIAR**

**President**

**DCDRC-1 (North)**