

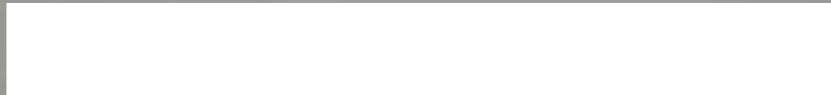


IN THE CONSUMER DISPUTES REDRESSAL COMMISSION,
THRISUR.

Present: 1. Sri.C.L.Sabu, President
2. Dr.K.Radhakrishnan Nair, Member
3. Smt.Sreeja.S., Member

29th day of January 2021
CC.344/16 filed on 23/6/16

Complainant :



(By Adv.A.D.Benny, Thrissur)

Opposite Parties: 1. District Medical Officer (Health), District Medical Office(Health), Thrissur.
2. Manager, ICICI Lombard General Insurance Co. Ltd., Kannankeri Estate, 3rd & 4th floor, Shanmugham Road, Marine Drive, Kochi.
(By Adv.C.R.Thomas, Thrissur)

ORDER

By Smt.Sreeja.S., Member :

The complainant undergone sterilisation surgery on 16/2/11. Since the surgery failed complainant is entitled to get indemnified by the 2nd opposite party insurance company as she is the beneficiary. On 16/7/12 1st opposite party forwarded the claim along with the relevant records to 2nd opposite party for getting the insured money of Rs.30,000/- vide letter No.C4-20239/06/DMO. 2nd opposite party did not act up on it. The complainant caused a lawyer notice, since the claim has not been allowed. So this complaint filed.

2.On receiving complaint, notice served properly to the opposite parties. Opposite parties appeared through counsel and filed its version. The version of 1st opposite party is that the complaint is not maintainable. Since the sterilisation surgery on 16/2/11 failed, the complainant filed



petition for insurance claim on 2/7/12. After convening quality assurance meeting on 10/7/12, 1st opposite party forwarded the claim on 17/7/12. 2nd opposite party denied the claim stating there was delay in preferring the claim and also the documents were not produced along with claim. In fact all the records along with petition were produced before the 2nd opposite party in time. As per the letter dated 30/11/15 the Director, Department of Health instructed to prefer further claim before the 2nd opposite party and vide letter No.C4-20259/06/DMO dated 5/1/16 proper letter were issued to Manager of 2nd opposite party. They never replied to the letter nor paid the money. As per the further direction of the director the reminder was sent to 2nd opposite party but no actions were taken on it. Hence the same intimated to the Director vide letter dated 10/6/16. The decision to allow the claim is to be taken by the government and all proper courses were adopted by the 1st opposite party for the same. The claims were denied stating reasons against actual facts and circumstances by 2nd opposite party and 1st opposite party taken all the steps in time. Hence they prayed for dismissal of complaint against 1st opposite party with cost.

3.The version of 2nd opposite party is that the complaint is not maintainable. They admit the policy subject to the terms, conditions, exceptions, limitations stipulated in the policy. They deny that 1st opposite party submitted claim form with all relevant records as per policy conditions. The notice shall be issued to the company within 90 days from the date of failure of sterilisation. They did not submitted the USG report duly attested by DMO which is the violation of policy condition. They limits the liability to Rs.30,000/-. The claim not supported by relevant documents. Since there is no deficiency of service from the part of opposite party. Hence prayed for dismiss.



4. The points for consideration are:

1) Is there any deficiency in service on the part of opposite parties?

2) If so, what are the reliefs and costs?

5. The complainant produced 5 documents and marked as Exts.P1 to P5. 2nd Opposite party produced two documents, which are marked as Exts.R1 and R2.

6. This is a complaint filed by a valid insurance policy holder against the denial of insurance claim by the 2nd opposite party insurance company. The pecuniary nature of this case is that 1st opposite party is the district Medical Officer, a functionary under health department, Government of Kerala. The 1st opposite party specifically admitted the facts stated by the complainant and also pleaded the proceedings taken on this claim. The specific case of the 1st opposite party is that they properly intimated the claim in time along with relevant records. There is no reason to disbelieve their version. Ext.P3 clarifies that there is no delay and non-production of relevant records. Ext.P4 also clarifies the same. Now Ext.R2 is the series of letters calling for the records. There is clear disparity in the pleadings and evidences adduced by 1st and 2nd opposite parties, as 2nd opposite party specifically put forth a case regarding the rejection of claim. They state there was a clear violation of policy conditions. To substantiate their claim they produced Ext.R1. It is true that Ext.R1 proves the conditions and terms and conditions of the policy but it is insufficient to prove that there was violation of those conditions especially nothing were produced in evidence in this regard. They could very well produce those files to substantiate their case and same is the best evidence to prove their case. As the 1st opposite party specifically states that all the records were produced along with the claim in time, the



burden of proving the case of the 2nd opposite party becomes more
The burden upon them. Since non discharging of such a heavy burden
defeat the specific case of the 2nd opposite party.

7. The complainant is a lady who bonafidely approach the Government Health Institution to get a valued support. The government considered she as the beneficiary of these type of insurance policy after fulfilling certain criterias. The concern of the common man is to be rightly attended to maintain a proper system in the society. This aspect invest heavy burden on 2nd opposite party insurance company to prove that the denial of the benefit was on specific reason. Since 2nd opposite party failed to prove the same this Commission is inclined to allow this complaint. Moreover, 2nd opposite party admitted in their version that their liability limited to Rs.30,000/-. Considering the evidence and pleadings as a whole, this complaint stands allowed.

8. In the result, complaint is allowed and hereby direct the 2nd opposite party to pay Rs.30,000/- (Rupees Thirty thousand only) to the complainant. 2nd opposite party is further directed to pay cost of Rs.2,000/- (Rupees Two thousand only). The entire amount shall be paid to the complainant within one month from the date of receipt of copy of this order and on failure, the entire amount carries an interest @ 12% per annum on the whole sum from the date of this order till realization.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in the open Commission this the 29th day of January 2021.

Sd/-
Sreeja.S
Member

Sd/-
Dr.K.Radhakrishnan Nair
Member

Sd/-
C.T.Sabu
President