

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

FAO(CP) No.1/2021
CM No. 813/2021

Life Insurance Corporation of India
& Anr.

...Petitioner/ Appellant(s)

Through: Mr. Shabaz Sikander, Advocate

V/s

Hamida Bano & Anr.

...Respondent(s)

Through: Mr. Tufail Qadri, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.
HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

JUDGMENT
19.12.2022

1. The Life Insurance Corporation of India and Anr. (LIC) is in appeal against the order of J&K State Consumer Grievance Redressal Commission, Srinagar (for short Commission) dated 24.10.2018, whereby the Commission has allowed the complaint of the respondents and has awarded a sum of Rs. 6 lacs along with 9% interest in favour of the respondents. The respondents have also been held entitled to litigation expenses of Rs. 25000/-.

2. Briefly stated the facts gatherable from the pleadings of the parties as are relevant to the disposal of this appeal are that the father of the respondents had obtained Life Insurance Policy with Rs. 3 lacs as sum assured. The policy was issued by LIC in favour of father of the respondents on 28.03.2006. The life insurance policy obtained by father of the respondents contained a clause of “Double Accident Benefit” cover, which provided that in case the life insured would die due to accident during currency of the policy, the insurer i.e., Life Insurance Corporation would be liable to pay double the sum assured.

3. That during the validity of the insurance policy, the insured i.e., the father of the respondents accidentally fell from veranda of his house and sustained fatal head injuries. He was taken to the nearest hospital where he succumbed to injuries on his way. The respondents herein informed the Life Insurance Corporation about the accidental death of their father and also provided them the medical certificate issued by the Medical Officer, copy of the death certificate issued by Police Station Kupwara, and also one issued by the Patwari of the Patwar Halqa concerned. The claim put forth by the respondents for payment of double the sum assured i.e Rs. 6 lacs under the policy of insurance was repudiated by LIC on the ground that the claim submitted by the respondents was without copy of the FIR, if any, registered in the matter.

4. Feeling aggrieved by the decision of LIC to repudiate the claim, the respondents filed a complaint before the Commission at Srinagar.

5. On being put on notice LIC filed its reply and took the plea that the claim of the respondents could not be processed and paid due to unavailability of FIR registration in respect of accidental death of the insured. There was no other plea taken by the LIC to oppose the complaint and to justify the repudiation of the claim of the respondents.

6. The Commission considered the entire matter in the light of rival contentions and came to the conclusion that filing of FIR in respect of an accidental death of a person in all cases is not a *sin qua non* for lodging a claim. The Commission rejected the stand of the LIC and allowed the complaint filed by the respondents in terms of the order impugned.

7. Having heard learned counsel for the parties and perused the material on record, we are of the opinion that the view taken by the Commission is unexceptionable and in complete conformity with the legal position. It is not in dispute that on the date the father of the respondents met accidental death he was covered by an insurance policy issued by the LIC.

8. It is true that the sum assured in the policy was Rs. 3 lacs but the insured was entitled to double the sum assured in case he would die due to accident. The medical record as also the copy of

the death certificate issued by the authorities clearly demonstrates that the father of the respondents, the insured had died due to injuries suffered in an accident.

9. Since the accident was not attributable to any act or omission of any person as such the respondents in their wisdom did not lodge an FIR in the matter. As a matter of fact, in the accidents of the nature that claimed the life of the father of the respondents, there is hardly any necessity to lodge an FIR. This is so because for such accident like a person falling from veranda and sustaining fatal injuries, nobody can be held responsible.

10. It is in this backdrop, the Commission correctly held that in the case of such nature where the death of the insured has occurred due to injuries suffered from a fall, the registration of FIR may not be required.

11. We are entirely in agreement with the Commission that in the case of this nature, the registration of FIR is not a *sin qua non* for processing the case under the policy of life insurance. Moreso, when there is other evidence in abundance to demonstrate that the deceased insured had died in an accident.

12. The plea of learned counsel appearing for LIC that the insured had not correctly disclosed his age and had submitted a false date of birth certificate at the time of insurance cannot be accepted at appellate stage.

13. There is no whisper in the objections filed by LIC before the Commission to this extent nor any effort was made by LIC to submit supplementary pleadings to raise the issue of forged certificate of date of birth provided by the insured at the time of insurance. Otherwise also the date of birth certificate produced by the insured at the time of insurance can not be unilaterally declared by insurance company as fake and forged unless the person who has submitted such certificate or his legal heirs in the case of his death are given an opportunity of being heard.

14. For all the aforesaid reasons, we find no substance in this appeal and the same is accordingly dismissed.

(MOKSHA KHAJURIA KAZMI)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR

19 .12.2022

"Nuzhat"

