

# • INSURANCE INSIGHT

Evidence not a mere formality in Consumer Disputes

False declaration of age in a proposal form - breach of material fact

Valuation of property while calculating underinsurance



### **Contract of Insurance with a dead person – A nullity.**

Hon'ble NCDRC has held in the case of United India Insurance v. Dhanvanti Devi [RP 2976/2017] that the contract in the name of a dead person is a nullity in the eye of law and the Insurer is not bound to make any payment to the for the loss alleged to have been suffered due to accident of the Insured vehicle.

This is a case where son obtained renewal of motor vehicle policy on name of his deceased father. The Learned DCDRC and Hon'ble SCDRC relying upon United India Insurance Co. Ltd. Vs. Santro Devi & Ors. [2009 (1) SCC 558] allowed the complainant's claim on simple reason that in case of 3rd party liability, the insurance company must pay.

Hon'ble NCDRC set aside the orders and held that aforesaid ratio applies only to statutory insurance. This is a case of own damage and not 3rd party liability.

Hon'ble NCDRC further held that around nine months elapsed since the demise of the Insured. This is very long time for getting the Insurance Policy changed in the name of the Complainants. This Judgment reaffirms the long-settled difference between statutory insurance and contractual insurance.

### **Payment of attendant charges under insurance when cared for by family.**

The Hon'ble Delhi High Court has held in the case of Sumer v. National Insurance Co. Ltd. & Ors. [Mac. App. No. 802 of 2018] that even where permanent attendant is not required, the victim might still require some help on regular basis due to the nature of its injuries and this help would be provided by the family members.

Despite the fact that the victim may be taking services of its own family members, who are providing it gratuitously, the compensation for attendant charges must be awarded to the victim in such cases for the contributions made by the family members.

In this case as well, attendant charges were enhanced from INR 10,000/- to INR 2,00,000/-.

### **Administrative inefficiency no ground for condoning delay.**

The Hon'ble National Consumer Disputes Redressal Commission (NCDRC) as observed in The New India Assurance Co. Ltd. v. Siya Ram & Ors. [RP no. 1939 of 2023] that that being a government institute, a much better efficiency and deference for law is expected from such an institute.

Mere contention that the Petitioner is a government institute and therefore, a file is to move through various levels or there was delay in translations of documents is not sufficient to condone the delay.

It further held that ordinarily, a liberal approach is adopted while considering the points of delay however, anything and everything said to bridge up the gap in delay cannot be termed legitimate explanation and it has to be sincere, honest and worthy of credence. If the grounds in the application for condonation of delay fall far short from sufficient grounds, mere managerial and administrative inefficiency are no good ground to vindicate the delay.

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