BHUBANESWAR OMBUDSMAN CENTRE

Complaint No-21-001-1289 Death Claim

Sri Pratap Ch. Singh Vs. Life Ins. Corporation of India

Award dated 13th April, 2011

FACT:-

The Complainant has come up with the grievance that the deceased Life Assured (DLA hereafter), had taken the policy of insurance under Table-Term 14-20 from the O.P. commencing from 17.11.2006 for a sum assured of Rs.50,000/-. The DLA died on 18.04.2008. Being the brother-in-law-nominee of the DLA under the policy, he lodged a death claim with the O.P. who by the letter dated 9.7.2010 communicated him about repudiation of his claim on the ground of withholding of material information by the DLA in her proposal form with regard to her age, marital status and occupation and also on the ground of lack of his (Complainant's) insurable interest on the policy. He claims that the grounds taken to deny the death claim to him by the O.P. are false, imaginary and with malafide intention inasmuch as no such objection was raised while accepting the proposal when her Voter ID Card was verified not only by the Agent but also by the Development Officer concerned and the premium was accepted and the policy was thereafter issued to her. Being dissatisfied with the above communication in denying his death claim, he represented to the higher authority of the O.P. from whom he received no response. In the Self Contained Note, it is stated by the O.P. that for taking the policy of insurance, the life assured had stated her age as 50 years in the proposal form though her actual age was 65/66 years as would be evident from the Consumer Identity Card issued under Annapurna Scheme of Govt. of Orissa and the Death Report dated 12.06.2008 of the DLA. It is further stated that in view of the norm set forth in its Central Office Circular no.1925/4 dated 31.12.2003 and no.1930/4 dated 31.01.2004, had the actual age of the DLA been disclosed at the time of submitting the proposal, it would not have accepted the Proposal for issue of the policy because of the age limit prescribed for entry into the policy scheme. It is also stated that the DLA furnished false information with regard to her marital status mentioning that her husband died in the year 1978 though actually she became a divorcee 25 years ago. Further, though in the proposal she had mentioned her annual income as Rs.25,000/-, yet she was residing with the Complainant 3/4 years prior to her death and was doing domestic work in his house and had no income of her own. She was thus not eligible for insurance and accordingly the nominee has no insurable interest on the life the DLA. Since the above material facts were suppressed by the DLA, the O.P. was not able to take proper underwriting decision at the time of considering the proposal for issue of the policy. Therefore, repudiation of the death claim of the Complainant has been rightly made by it. With the above contentions, it asks for closing of the case without grant of any relief to the Complainant.

AWARD:-

The Hon'ble Ombudsman opined that the main thrust of the contentions of the parties is on the aspect of age of the DLA. It appears that the proposal was submitted in November' 2006. The age of the proposer in this form is mentioned as 50 years and from the entry made herein it appears that in support of the age proof, the Voter Identity Card was submitted. The Xerox copy of the Voter Identity Card which was submitted by the proposer shows that as on 1.1.2002, the age of the DLA, was 45 years. The manner in which her husband name is described here, it indicates that her husband was alive at least when the particulars in respect of this voter Identity card were taken, though in the proposal form the DLA has mentioned about the death her husband as long back as in the year 1978. Surprisingly, another voter identity card which is produced during the hearing by the Complainant shows that DLA was aged 26 years on 01.01.1994. If the age noted in this Voter Identity Card of the year 1994 would be taken into account, it would bring out that in the year 2002 the age of the Life Assured was 34 years. But, the voter Identity Card filed with the proposal form would show that DLA was 45 years in 01.01.2002. In the manner the name of the husband is described in this Voter Identity Card of 01.01.1994, it indicates that the husband of the DLA was then alive. It would bear repetition that in the proposal form the life assured had mentioned about the death of her husband in 1978. When confronted, the Complainant is unable to explain as to how such wide variation in the age in two successive Voter Identity Cards in respect of the same person has occurred. In view of discrepancies, it would be difficult to accept either of the two voter identity cards to ascertain the age of the life assured at the time when the policy was taken by her in the year 2006. Further, the Hon'ble Ombudsman observed that in deciding age of the deceased life assured only the document of which assistance is taken by the O.P. concerning the age of the DLA is the post mortem report, a copy which is filed on behalf of the O.P. From the entries made herein, it appears that the doctor has found the age of the deceased as 55 years at the time of her death which occurred on 18.04.2008. There is no gainsaying of the fact that the doctor is an expert and for the purpose of evidence, age of the person as found by a doctor is taken as the evidence of the expert. In the absence of any other dependable material available on record, this document has to be taken as the basis to ascertain the age of the policy holder at the relevant time. It needs no authority to say that judicial courts normally allow a margin of error of 2 years on either side on the age assessed by the doctor. Once the above age as found by the doctor is taken into account, in the year 2006 when policy was taken, age of the DLA works out to 53 years. Allowing the margin of error of two years on the lower side, the age of the policy holder would not be below 51 years in the year 2006. The circulars of the O.P. about which reference has been made above, prescribe the upper entry age limit of the proposer under NSAP-II and NSAP-III category at 50 years. So, as per the Circulars, the DLA had lost her eligibility in the year 2006 to take the policy. Hence, had this age been mentioned, the underwriter would not have accepted the proposal. It would, therefore, follow that there is a false statement made by the proposer with regard to her age in the proposal form submitted for taking the policy. It is well known that policy of insurance is a contract and the parties have to act with utmost good faith while entering into the contract of insurance. The proposer has thus not acted fairly with the O.P. for the

purpose of taking the policy. There being material suppression of fact with regard to the age of the DLA in the proposal form, the repudiation of the death claim by the O.P. cannot be interfered with. The fact that at the time of acceptance of the proposal no such objection was raised as is contended by the Complainant would not stand on the way of or preclude the O.P from considering these aspects while examining the question of entitlement of the person asking the benefit of death claim. Hence, the Complaint is dismissed and the Complainant is not entitled to any death claim on the policy in question.

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BHUBANESWAR OMBUDSMAN CENTRE

Complaint No-21-001-1292 Death Claim

Smt. Mamatamayee Das Vs. Life Ins. Corporation of India

Award dated 29th April, 2011

FACT:-

Non-settlement of Accident Benefit Claim raised upon the policy of insurance taken by the Complainant's deceased husband is the grievance of the Complainant against the Opposite Party-Insurer. However, in its Self Contained Note, the O.P. has taken the stand that for the death of the Life Assured, the death claim was settled for the basic sum assured i.e., Rs.5,50,000/- and with interim bonus, the amount computed at Rs.6,02,800/- which was paid to the nominee of the DLA vide cheque no-73013 dated 18.08.2010. As per the instructions in its Claim Manual, for considering the claim for payment of the Double Accident Benefit under the policy, the nominee was asked vide its letter dated 03.08.2010 to furnish certified copies of F.I.R., Inquest and Post-mortem Reports, Final Form of the Police and the verdict of the Court for ascertainment of the fact that the event of murder of the LA was an accident. But, the documents and papers are not furnished yet by the nominee. Since, the nominee has failed to submit the requisite papers, it asks for closing the case.

AWARD:-

The Hon'ble Ombudsman observed that the case was adjourned in the first hearing to enable both parties to collect the material documents for determination of the nature death of the life assured. On the 2nd date of hearing which was held on 23.03.2011, the Complainant submitted her inability to procure the Police documents. Sri Sankar Prasad Das, Manager (CRM) appearing for the O.P. submits that as the court papers relating to the death case were not submitted by the Complainant, the process could not be completed. He asked for 30 days more time to sort out the matter. The hearing was again adjourned to 27.04.2011. It appears that before the date of the

final hearing, an additional Self Contained Note is filed on 26.04 2011 on behalf of the O.P. wherein it is stated that after receipt of the letter from the Complainant regarding her inability to produce the police final report and the court verdict on the ground that the place of the death is at a far-off place from her residence, it contacted its Warrangal Division and Bhuapally Branch within whose jurisdiction murder of the life assured had taken place. It got the police final report whereupon it processed and settled the case deciding to pay the Double Accident Benefit. Eventually, its Cuttack Branch Office has issued the cheque no-144505 dated 20.04.2011 for Rs.5,50,000/- in favour of the nominee and the cheque has been dispatched in the nominee's address by Speed Post on 21.04.2011. When the case is taken up on 27.04.2011 for consideration, the O.P.'s representative namely Sri Sankar Prasad Das, Manager (CRM) appears and submits that the Double Accident Benefit amounting to Rs.5.5 lacs has been paid by sending the cheque in the address of the nominee. The Xerox copy of the cheque for Rs.5,50,000/- dated 20.04.2011 drawn in favour of Kalandi Das, the nominee is filed along with the forwarding letter. The policy copy available on record shows that Kalandi Das is the nominee. The DAB Claim amount in full appears to have been sent to the nominee. Thus, the demand of the Complainant has in the meantime been satisfied. In these circumstances, the Complaint is dismissed.

BHUBANESWAR OMBUDSMAN CENTRE

Complaint No-21-001-1299 Death Claim

Smt Bishnupriya Dash Vs L.I.C. Of India

Award dated 06th Day of May, 2011

FACT: The Complainant is the wife-nominee of the deceased Saroj Kumar Dash who had taken from the O.P.-Insurer two policies of insurance on his own life with two policies commencing from 28.01.2004 & 28.05.2004 under T-T 75-20 and 103-19 for the S.A of Rs. 51,000/- and Rs.52,000/- on quarterly and half-yearly modes respectively. It is stated by the Complainant that the premium amounts due for the first two years of the policies were taken by the above Agent from the DLA for deposit. But, instead of depositing the premium amounts in time , subsequently he deposited premium amounts with interest for delay in payment without their knowledge. Subsequent four years, the premiums were deposited in time. Unfortunately,after his death on 15.05.2008, being the nominee , she lodged death claims with the O.P. who denied the payment on the reason of suppression of material facts. Being aggrieved she has filed this Complaint.

In its S.C.N., the O.P. has taken the stand that the above two policies were got revived on 16.06.2006 and 21.12.2006 respectively. The statements of "***Declaration of Good Health"*** were furnished by the Policy-holder who as against the question no-2 (a), (b) and (c) suppressed the material facts regarding his past diseases and treatments which he had received at Kalinga Hospital, Bhubaneswar from 05.01.2006 to 17.01.2006, at SCB Medical College

Hospital on 01.05.2007 and at Acharya Harihar Regional Cancer Centre, Cuttack on 04.05.2007. Since there were suppression and concealment of material facts made by the Policy-holder , the repudiation of claim of the Complainant, as has been made, is justified.

AWARD:- The Hon'ble Ombudsman opined that as correct facts were not stated in the statements of declarations and the facts regarding the illness, treatment and test were suppressed and concealed by the Life Assured who himself took the treatment there is clearly suppression of material facts concerning his health. Thus, the repudiation of the death claim as has been made by the O.P. is clearly justified and I find no illegality in the action of the O.P. in this regard. Therefore, the Complainant is not entitled to the death claim on either of the two policies. Hence, the Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

Complaint No-21-004-1301 Death Claim

Smt Niraja Mohanty Vs ICICI Pru Life Ins. Co. Ltd.

Award dated 09th Day May, 2011

FACT:- It is stated by the Complainant that her husband Late Durga Prasad Mohanty had taken from the O.P.-Insurer a Unit Linked Policy under plan Life Time Gold bearing no-08604363 commencing from March, 2008 for a S.A. of Rs.1,50,000/- with yearly mode @ Rs.30,000/- and he died on 29.06.2010 due to complications arising out of the accident. The O.P. repudiated her claim assigning the reason that there were suppression of material facts and offered her an ex-gratia payment of Rs.90,000/- which was not acceptable to her. It is further stated by the Complainant that being a Unit Linked policy, and on the date of intimation, the fund value had gone beyond Rs.1,10,000/- . LIC had settled their claim in relation to a policy Rs.49,705/- paying the market value of the deposit. Being aggrieved ,she has filed this Complaint.

In its S.C.N., it is stated by the O.P. that the life assured did not disclose full, complete and correct material facts with regard to his health in the proposal form though on 18.12.2006 he received treatment at Gastroenterology Department for liver ailment, on 04.01.2007 he had taken medical consultation at Digestive Diseases Centre for low haemoglobin level and on 05.03.2007 he underwent Sigmoidoscopy which revealed his ailment as Grade-II internal Haemorrhoids. Therefore, repudiation of the death claim is justified, but, as an exceptional case it (the O.P) offered the Complainant ex-gratia payment of Rs.90,000/- which was equal to all premiums deposits made on the policy. With these contentions, it asks for dismissal of the Complaint.

AWARD:- The Hon'ble Ombudsman observed that from all the prescriptions submitted , it appears that on 16.12.2006 the life assured consulted in the Gastroenterology Department and

on 04.01.2007 he received treatment at Digestive Diseases Centre, Mangalabag, Cuttack and from the copy of Sigmoidscopy report dated 05.03.2007 in respect of Mr. D.P. Mohanty, undeniably he was examined at Department of Gastroenterology, St. John Medical College, Hospital, Bangalore. and the same was knowingly suppressed by the L.A. Material Information having been suppressed, I find no illegality committed by the O.P. in rejecting the Death Claim. A reading of Section-45 of the Insurance Act, 1938 as questioned by the complainant, would show if facts suppressed are material and if the policyholder knew at the time of making such statement that it was false, such mis-statement can be questioned by the Insurer even after expiry of two years from the date of commencement of the policy. Therefore, in the context of the facts of the case as stated above, Section 39 does not stand in the way of the O.P. to repudiate the death claim. As the policy being a Unit Linked Policy, the major part of the premium paid has been invested in the market and the same has acquired a Fund Value which was Rs.1,01848=83 paisa or say Rs.1,01,849/-. The Complainant is, therefore, only entitled to the fund value of the amount of premium invested and I deem it fair and equitable to allow interest @6% per annum . Hence the O.P. is directed to pay the fund value of the amount of premiums invested from out of the deposits made on the policy with interest @6% per annum thereon from the next date of intimation till payment to the Complainant.

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BHUBANESWAR OMBUDSMAN CENTRE

Complaint No-21-002-1305 Death Claim

Sri Dolagobinda Mohanty Vs L.I.C. Of India

Award dated 17th Day May, 2011

Fact: The Complainant , the husband of Late Santilata Mohanty who was a member of 'Maa Hingula Self-Help Group' on opening of a Bank Account with S.B.I., Bhubaneswar Circle, the Master Policyholder, got herself covered under O.P.'s Swadhan Group Insurance bearing Master Policy No-86000052906 for a sum assured of Rs.50,000/- on her life commencing from 01.01.2008 and the premium on the policy was payable annually through her above Banker. Consequent upon her death on 31.12.2008, he lodged a death-claim with the O.P. who repudiated his claim on the ground of false declaration of Good Health while making the application for the insurance. Being aggrieved, he has filed this complaint seeking for the relief of payment of sum assured to him by the O.P.-Insurer.

In its S.C.N , it is stated by the O.P. that in order to secure the policy coverage, the deceased Applicant namely Santilata Mohanty made false statements in the declaration stating that she did not suffer from any of the ailments as specified in the Declaration and that she was of sound health. The facts regarding her past sufferings from Cerebro Vascular Accident with Left Hemiparesis which diseases in her were diagnosed on 07.11.2005 by her consulting physician Dr. R.N. Kar who further gave her treatment also on 30.04.2006 , were suppressed so

the repudiation of the death claim is, thus, just and on legal reasons. With these contentions, it prays for dismissal of the Complaint. During hearing, it is submitted by the Complainant that the deceased life assured who was his wife had only some gastric problems and had no other disease and if the copies of the medical papers filed by the O.P. would be made available to him, he would ascertain the correctness of the entries made in the treatment documents filed by the O.P. relating to his wife's illness from the concerned doctor. The O.P.'srepresentative raises no objection to the request of the Complainant for supply of the medical papers filed in this case from the side of the O.P.

AWARD:- The Hon'ble Ombudsman observed that from the Subsequent document filed on behalf of the O.P. i.e., copy of the certificate of Dr. R.N.Kar who was the consulting Doctor giving treatment to the proposer, said Santilata Mohanty was then suffering and It would appear from the certificate of the above doctor that Santilata Mohanty was treated by him on 07.11.2005 and subsequently on 30.04.2006 for Cerebro Vascular Accident (old) with Left-sided Hemiparesis. Though copies of the prescriptions were made over to the Complainant at the time of oral hearing to enable him to make his submissions after ascertainment of the correctness of the treatment from the doctor, yet nothing is reported by him till date either denying the fact of above treatment of his wife by the above doctor or the correctness of the diseases noted therein. Thus, , it is clear that Santilata Mohanty suffered from the disease of Cerebro Vascular Accident and Left Hemiparesis towards the last part of the year 2005. But, this fact has not been stated in her application submitted for admitting her to the Swadhan Group Insurance Policy. Since these material facts were suppressed, the contract of insurance taken by the life assured is void and therefore, repudiation of the claim of the Complainant as has been made by the Insurer cannot be faulted and interferred with.Therefore, the Complainant is not entitled to death claim from the Insurer who is not liable to pay any death claim to the Complainant. Hence the complaint is dismissed.

BHUBANESWAR OMBUDSMAN CENTRE

Complaint No-24-001-1306 DEATH

Sri Sarat Ch. Mishra Vs. Life Ins. Corporation of India

Award dated 29th April, 2011

FACT:-

It is stated by the Complainant that his wife late Bimala Panda had taken a policy of insurance commencing from the date 20.09.2007 on her own life from the O.P.-Insurer bearing number 585976902 for the sum assured of Rs.1,00,000/-with premiums being payable on half-yearly mode at the rate of Rs.5,000/-. The premium of Rs.5,000/- on the policy was paid. The life assured expired on 12.01.2008. Being the nominee under the policy, he lodged a death claim with the O.P. with all necessary papers including his affidavit which the O.P. asked him to file.

Yet his claim is not settled by the O.P. who did not pay him any amount on his death-claim. Being thus aggrieved, he has filed this Complaint. The O.P.-insurer in its Self Contained Note has stated that it has settled the death claim of the Complainant for Rs1,00,000/- and has sent the cheque no 0634757 dated 21.01.2011 for Rs.1,00,000/- in the address of the Complainant. With the above contention, it asks for closing of the case.

AWARD:-

The Hon'ble Ombudsman observed that at the Oral hearing, the O.P. alone has made its appearance through its representative. The O.P.'s representative submits that the death claim amount of Rs.1 (one) Lakh has been paid to the Complainant through bank cheque and submitted in writing that the cheque no.0634757 for Rs.1,00,000/- has been encashed on 10.02.2011 by the Complainant. The Complainant has not appeared to raise any further grievance on his complaint. Thus, the materials made available go to show that the death claim of the Complainant has been already settled and the amount due has been paid to the Complainant. The claim having been attended to and amount paid, the Complainant is not entitled to the relief prayed, any more and hence, the Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-003-1309 Death Claim

Sri Purna Chandra Behera Vs. Tata A.I.G. Life Ins. Co. Ltd.

Date of Order : 11.05.2011

Fact: This is a Complaint filed against repudiation of the death claim based upon a policy of insurance.

The mother of the complainant Late Urmila Behera had taken a policy of insurance under Growth Plan bearing no-C153745843 from the O.P.-Insurer on her own life for the sum assured of Rs.1, 22,000/- with the policy commencing from 25.09.2009. The life assured died on 18.05.2010 following a chest pain in her. He lodged death claim with the O.P. who repudiated his claim on the ground of furnishing of incorrect information by the Life Assured about her occupation and income. Being aggrieved he filed the Complaint.

The O.P.stated that in the application for insurance made by the life assured ,as against question no- 9 (e) and 9 (f) the Proposed Insured had shown herself as an owner of retail shop with an annual income of Rs.1,40,000/- though, as their investigation has established, she owned no such shop and had no income of her own and the family was BPL Card holder vide BPL Card No-774046. Since false and incorrect representations of facts with regard to

occupation, income and financial status of the life assured were given, death claim was repudiated.

Award: The O.P. has also filed the copy of the proposal form submitted by the life assured to take the policy. The copy of the BPL Card No-774046 issued in the name of Shri Duryodhan Behera, said to be the husband of the policy-holder, is also filed. In the BPL Card it is clearly mentioned that the family was landless. It is well known that BPL Card is issued to family living below the poverty line. The document thus run contrary to the claim of the propose-insured that she was having a business and earning Rs.1,40,000/- per annum. The family being of BPL category, the statement that the proposed-insured was making an annual income of Rs.1,40,000/- is also not correct. It has been found that the statements furnished in the proposal application by the proposed-Insured that she was owning a retail shop and was making an annual income of Rs.1,40,000/- are not correct. In similar such situation, in Muni Mahesh Patel Case (ibid) the Hon'ble Apex Court observed that for wrong declaration of nature of occupation for the person insured, no relief is to be granted. The contract of insurance is a contract of utmost good faith and when such good faith is not observed by one party the other party is perfectly within its right to repudiate its liability. In this case, the false information with regard to occupation and income of the policyholder being furnished in the proposal application, repudiation of the claim as has been made by the O.P. cannot be faulted with. Therefore, the Complainant is not entitled to any relief under the policy taken by his deceased mother. Hence, the Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-009-1319 Death Claim

Smt. BishnupriyaMohapatra Vs. Bajaj Allianz Life Ins. Co. Ltd.

Date of Order : 11.07. 2011

Fact : The Complaint is for repudiation of death claims of the Complainant by the Insurer.

The husband of the Complainant Late Bijaya Kumar Mohapatra had taken two policies of insurance on his own life from the O.P. under two different plans viz. (1) Fortune Plus Size 1 and (2) Century Plus-II bearing policy no- 0114975681 and 0127773663 from 04.12.2008 and 01.06.2009 for sums assured of Rs.1,50,000/- and Rs.1,25,000/- respectively. The Life Assured namely Bijaya Kumar Mohapatra died on 23.12.2009. Being the nominee under the policies, the Complainant lodged death claims with the O.P. who repudiated her claims on the ground of non–disclosure of material facts by the Life Assured in the proposal forms with regard to his past disease and his alcoholic habit. Being not satisfied with the action of the O.P. in repudiating her death claims she has filed this Complaint.

In the Self-Contained Note, it is stated by the O.P. that the Medical Certificates/ Medical Case-Sheet issued by (1) Dr. Dharnidhar Pandav (2) Dr. Manoranjan Behera (3) Dr. Hari Menon who gave treatment to the Life Assured prior to submission of the Proposal Forms, revealed that the Life Assured had undergone operation on 06.08.2005 for inguinal hernia and that he was chronic alcoholic for past 22 years. But, these material facts which were within the knowledge of the deceased life-assured were not disclosed by him in the Proposal Forms submitted by him. Accordingly the claim is repudiated.

Award: From the above medical papers, it is fairly clear that on 06.08.2005 the proposer namely Bijaya Kumar Mohapatra who was the policy-holder as well as the life assured, had undergone operation for inguinal hernia and he was a chronic alcoholic for the past 22 years. As already noted, the proposal paper in respect of one policy was signed by him on 29.11.2008 and of the other policy on 30.05.2009. But, in these papers the proposer did not disclose about his above hernia operation and also denied about use of alcohol by him. There cannot be any room for doubt that these facts were not within the knowledge of the proposer. It is needless to say that inaccurate and false answers in the proposal forms entitle the Insurer to repudiate its liability for the reason that a contract of insurance is a contract of utmost good faith which both parties are required to observe. The proposer having made clear suppression of material facts with regard to his health and habit, the Insurer is fully justified in repudiating the death claims of the Complainant. The Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 24-001-1320 Death Claim
Smt. Gitanjali Sahoo Vs. Life Insurance Corporation of India, Keonjhar BO
Date of Order : 25.05.2011

Fact : This complaint is filed for delay in settlement of death claim by the Insurer-Opposite Party.

The Complainant is the nominee of Late Shanilata Khatua, the Life Assured, who had taken theLIC's Profit Plus policy of insurance on her own life from the O.P. under plan & term nos.188-15 bearing policy number 588298360 for the Sum Assured of Rs.50,000/- on single mode of deposit of premium of Rs.20,000/- . The policy commenced from 26.02.2009. The life assured namely Shantilata Khatua expired on 31.07.2009. Being the nominee under the policy she preferred the death claim submitting all the requisite papers. In spite of her approaches, when inordinate delay is made in the settlement of the claim, she has to file this Complaint seeking the relief for settlement of her claim.

In its Self -Contained Note, the O.P. has stated that the claim which was an Early Claim case has been already settled and the death claim amount of Rs.50,000/- vide cheque No.0282326

dated 18.03.2011 has been sent to the nominee through its Keonjhar Branch Office. Since settlement has been made, it is stated to close the case.

Award: At the oral hearing, only the O.P. through its Manager (CR) namely Sri Sankar Prasad Das appears. The O.P.'s representative submits that the claim of the Complainant has been settled and the amount has been sent to the Complainant-nominee by cheque which has also been encashed on 15.04.2011 by the drawee. It appears from the record that on 23.05.2011 a letter signed by the Complainant is received in this forum. It is intimated in the letter by the author thereof that the LICI, Keonjhar Branch Office has settled the claim in April-2011and, therefore, she has no grievance now. In view of the settlement of the claim with payment of the death benefit, the grievance of the Complainant no longer subsists. Hence, the Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-009-1321 Death Claim

Smt. Kawita Agarawal Vs. Bajaj Allianz Life Insurance Co.Ltd.

Date of Award : 08.07. 2011

Fact : The Complaint is for rejection of accidental-death-benefit claim by the Insurer.

The husband of the Complainant ,late Ajay Kumar Agarwal had taken O.P.'s Bajaj Allianz Invest Plus policy of insurance bearing no-0166775490 on the life of their minor daughter namely, Miss. Khusboo Agarwal for a term of 20 years commencing from 27.04.2010 on a sum assured of Rs.2, 00,000/- depositing the first annual premium of Rs.20, 000/- on the policy. Unfortunately, in a road accident on 12.08.2010, the Policy-holder Ajay Kumar Agarwal died. Being the widow of the deceased policy-holder, she lodged the accidental death benefit claim with the O.P.-Insurer who rejected her claim on the ground that the policy does not cover life risk of the policy-holder and therefore, the claim made on the death of Ajay Kumar Agarwal by her is not admissible. Describing action of the O.P. in rejecting her death claim as illegal and void, she filed the Complaint seeking the relief by way of payment of Accidental Death Benefit in respectof her deceased husband from the O.P. to her.

The O.P. stated that the Policy-holder namely Ajay Kumar Agarwal had applied for insurance on the life of his minor daughter who is named as the 'Life Assured' in the policy. The Proposer of the policy namely Ajay Kumar Agarwal did not opt for any additional rider clause benefit on the policy. It is submitted by it that since the terms and conditions of the policy cover only the Life Assured and not the policy-holder, death-claim made on the life of the policy-holder is not entertainable.

Award : The policy conditions do not contain any provision to take care of the situation when the policy-holder who is not life assured and has taken a policy in respect of a minor child, meets his /her death during the period of the minority of the life assured without taking premium waiver benefit rider. It is clearly submitted by the Complainant that she is not in a position to pay the further premiums. The policy-holder who is none other than the father of the life assured is no longer alive. Only one policy premium has been paid. As per the terms of the policy, if default in payment of the premium occurs within first three years, the policy lapses. But, here in this case the person who took the policy is no more. The life assured is a minor. As per the proposal form she continues to be a minor even till date. No further deposit as stated by the Complainant is possible to made by it. But, all the same the O.P. has got the deposit of Rs.20, 000/- from the father of the life assured. With deposit of the amount of Rs.20, 000/- the O.P. is obviously benefitted. Having regard to the facts and circumstances of the case and the minority of the life assured whose deceased father had taken the policy for her by depositing the first premium to the extent of Rs.20, 000/-with the O.P obviously for the benefit of the minor., it would be just and equitable to award an ex-gratia payment of Rs.20,000/- to be paid by theO.P. for the benefit of the life assured. Hence, while rejecting the claim of the Complainant for accidental death benefit, it is directed that the O.P. to make payment of Rs.20,000/- as ex-gratia to the Complainant.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-007-1328 Death Claim

RanjuTahal Vs. Max New York Life Ins. Co. Ltd.

Date of Order : 27.07.2011

Fact : The Complaint is for repudiation of death-claim based on policy insurance by the Opposite Party-Insurer.

The father-in-law of the Complainant late Nakul Tahal had taken a Whole Life Participating policy of insurance bearing no – 801992595 from the O.P.-Insurer on his own life for a sum insured of Rs.1,48,726/-. The policy commenced from 19.06.2009. The life-insured died at MKCG Medical College, Berhampur, Ganjam on 10.07.2009. Being the nominee , the Complainant lodeged death-claim with the O.P. which was repudiated on the ground of suppression of material fact by the diseased .As such she filed the Complaint praying payment of the death- claim to her by the O.P.

The OP stated that as per the statement of the attending physician namely Dr. S.S. Acharya, the life insured was suffering from hypertension for last five years prior to the signing of the proposal form. But the LA stated that he was never diagnosed with having hypertension and high blood pressure. Since suppression of material fact concerning the health

of the life-insured was made at the time of taking of the policy, there was breach of good faith on the part of the Insured .Hence, repudiation of death claim was made.

Award : It would be evident from the attending physician statement given in form C in respect of the life assured –Nakul Tahal that his (Nakul Tahal's) was a known case of 'HTN' indisputably standing for the word 'Hypertension' for five years. The attending physician as it is mentioned in the form was Dr. S.S. Acharya, Asst. Professor of Medicine, MKCG Medical College Hospital, Berhampur. It shows that the patient Nakul Tahal was admitted to the hospital for treatment on 08.07.2009 and his treatment continued upto 10.07.2009.The report further indicates that details of the treatment were available in the bed-head ticket, obviously of the patient. The death certificate filed by the Complainant would show that Nakul Tahal died at MKCH Medical College Hospital, Berhampur on 10.07.2009.. Though it is contended by the Complainant that the life assured had no disease, yet the medical certificate of the doctor who gave him treatment shows that Nakul Tahal was suffering from hyper-tension for the past five years prior to the commencement of his treatment on 08.07.2009 at MKCG Medical College and Hospital.

It was noticed that in the proposal form the answer furnished by the proposer who was the life insured himself was that he had no hypertension or high blood pressure. This proposal form was signed on 19.06.2009. Necessarily, the answer as given on the health conditions in respect of the life insured in the proposal form was false. By giving false answer with regard to the health conditions of the life insured, the principle of good faith has been clearly violated by the policy-holder for taking the policy. The fact suppressed being material to the issue of policy, the O.P. is clearly within its right to avoid the contract. In the above situation, Repudiation of the claim of the Complainant as has been made by the O.P. is clearly justified. The Complainant is, therefore, not entitled to the relief as claimed by her. Hence, the Complaint is dismissed.

BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 24-001-1333 Death Claim

Sri Dillip Ku. Hota Vs. Life Insurance Corporation of India

Date of Award : 28.07. 2011

Fact: The Complaint is for delay in settlement of the death claim of the Complainant by the Opposite Party-Insurer.

The wife of the complainant late Mamata rani Hota had taken two policies of insurance bearing no- 593402037 and 593587638 from the Opposite Party on her own life for the sums assured of Rs.2,00,000/- and Rs.3,00,000/- respectively. The dates of commencement of the policies were respectively 27.09.2007 and 01.01.2009. The life assured died on 03.10.2009. Being the nominee under the policies, the Complainant lodged the death claims with

the O.P. filing requisite documents. But, in spite of number of contacts made by him with the Branch Manager of the servicing Branch i.e., Sundargarh Branch of the O.P., his claims are not settled. Being aggrieved he filed the Complaint seeking appropriate order for settlement of his claim.

The O.P. stated that the diseased life assured was suffering from Cirrhosis of Liver since 2005 and had received treatment at Shanti Nursing Home, Cuttack and AIG, Hyderabad on several occasions between the year 2005 and 03.10.2009, she furnished false answer denying her sufferings and treatment in the Hospital, Nursing Home prior to applying for the policy. Basing upon false information policies were issued, the claim of the Complainant has been justly and appropriately repudiated.

Award: Thus, the medical paper clearly brings out that since the year 2005 the patient Mamatarani Hota who is the policy-holder has been suffering from Cirrhosis of liver. But, as the proposal form would show that against item no-11 (iv) which required the proposer to answer if she was suffering from or had ever suffered from ailments pertaining to liver etc., the answer given was 'NO'. In view of the medical paper, the answer given in the proposal form was clearly false. The policies in question were taken on the life of said Mamatarani Hota. The proposal form was submitted on 27.09.2007. Though by then the life assured was suffering from Cirrhosis of liver false answer was given by her by way of denial of the fact. As false answers have been given in the proposal forms on consideration of which policies were issued and as utmost good faith has not been observed by the Proposer in her intimation to the Insurer on her health, the Insurer is clearly justified in its action in repudiating the claim of the Complainant. In the circumstances, the Complainant is not entitled to any relief on the death claim. Hence the Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-013-1334 Death Claim

Sri Pradeep Kumar Padhy Vs. Aviva Life Insurance Co. India Ltd.

Date of Order : 03.08. 2011

Fact : The Complaint is for repudiation of death claim by the Opposite Party-Insurer.

The sister of the Complainant,late Mamata Kumari Padhy had taken O.P.'s Life Shield Plus Policy of Insurance bearing no – ASP2962758 on her own life for a term of 20 years with the policy commencing from 10.05.2010 for a sum assured of Rs.14,00,000/-. The policy-holder made her minor daughter- Pratyasha Dash as nominee and the Complainant as the Appointee. Unfortunately, the Life Assured died of Cerebral Malaria on 07.06.2010 while undergoing treatment at New Care Hospital, Berhampur. Being the Appointee under the policy,

he (Complainant) lodged a death-claim enclosing medical papers and Death Certificate relating to the life assured with the O.P. which was rejected by the insurer on the ground of non-disclosure of material facts relating to other 'Insurance Details'. Being aggrieved by repudiation of his claim, he filed the Complaint praying for issue of a direction to the O.P. to pay the death-claim to him without delay.

The O.P. stated that on enquiry it was found that the deceased life assured had earlier taken some other life insurance policies from other life Insurance Companies. But, such material facts were not disclosed by her in the Proposal Form . By giving false answer, the policy-holder violated the terms and conditions of the policy by way of suppression and non-disclosure of material facts which amounts to breach of good faith entitling the Insurer to avoid the contract of insurance. It is further stated that the face value of all the policies taken by the life assured was more than Rs.35 lacs and as per underwriting guidelines if the total of the face value of all policies taken during the current and previous calendar years exceed Rs.35 lacs, I.T. Return/ I.T.Form No-16 for the three consecutive previous years need to be called for at the time of issuance of policy of insurance. Had the material fact regarding other insurance details been disclosed in the Proposal Form it would have definitely affected underwriter decision. Since there was mis-representation and non-disclosure of material information repudiation of the claim as has been made by the O.P. is rightly done.

Award : It has been found that though the life assured had taken other policy of insurance from other Life Insurance Company, she did not disclose these facts in the proposal form. Thus, there is suppression of material information made by the life insured for taking the policy from the O.P. Since the life assured has suppressed the material fact for getting the policy, the Insurer is legally entitled to avoid the contract of insurance which requires utmost good faith to be observed by the parties in their contractual relationship between them. Therefore, repudiation of the claim, as has been made by the O.P. is not unjustified. Hence, Complaint is dismissed.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-001-1346 DEATH

Smt. G.Lalitha Vs. L.I.C. of india, Paralakhemundi B.O.

Award Dated 5th September, 2011

FACT :- This complaint is filed against repudiation of death claim.

It is the case of the Complainant that her husband had taken the New Jana Raskha Policy of Insurance from the O.P. through for Rs.50,000/- S.A. with the policy commencing from 15.11.2008. On 04.12.2008, the LA met an accidental death. Being the nominee under the policy, she lodged the death-claim with the O.P. who repudiated her claim on the ground of suppression of material facts relating to previous policies taken by him. It is stated

that the insured was an illiterate person who furnished all details as were asked to him by the O.P.'s Agent for taking of the policy. It is further stated that the insured had also taken another policy under the same table-term from the O.P. furnishing the similar particulars and the sum assured under that policy had been paid. Therefore, it is stated, there is no justification in rejecting the claim on this policy. Her representation against rejection of her claim had no effect for which she has to file the Complaint.

In the Self-Contained Note, the O.P. has stated that as per the nature of the age proof furnished, the LA came under NSAP – III category of proposers in whose case the maximum limit of insurance cover was Rs.1,00,000/-. The insured had previously taken three policies with total SA of Rs.1,05,000/- which amount exceeded the maximum permissible limit. But in the proposal form, the LA did not fully disclose the particulars of the previous policies taken by him. It is stated that had the insured furnished the full particulars of all previous policies taken by him, further insurance under this policy would not have been granted by it to him. Since there was non-disclosure of material facts relating to the previous policies by the insured, the claim has been repudiated.

At hearing, the Complainant that her husband had studied up to Class-V indicating thereby that he had little education; that all particulars in connection with the proposed policy as were asked to him by the Agent, were all stated and that her husband did not suppress any material fact for taking the policy. On the other hand, the O.P.'s representative repeated the same facts as are stated in the SCN.

AWARD :- Hon'ble Ombudsman observed that the fact of non-mention of above policy particulars is clearly borne out from the copy of the proposal form wherein particulars relating to the his first policy for Rs.15,000/- were only furnished. The O.P.'s Circular showed that as per the Age Proof furnished by the Proposer, he came under NSAP-III category of proposers and for that group the maximum limit of S.A. for age between 36 to 45 is Rs.1,00,000/-. So, the O.P. could not have accepted the last proposal of the insured, had the latter stated the policy particulars of his two previous polices in the proposal form. There cannot be any doubt that such information was a material fact for the acceptance or otherwise of the policy by the O.P. But these particulars which were obviously within the knowledge of the proposer were not disclosed, in other words suppressed by the proposer for taking the last policy.

Hence, Hon'ble Ombudsman dismissed the complaint as having no merit.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 21-002-1373 DEATH

Smt Maheswata Ghosh Vs. S.B.I Life Insurance Co. Ltd.

Award Dated 25th July, 2011

FACT :- This complaint is filed against repudiation of death claim.

It is the case of the Complainant that her husband had taken two nos. of 'Unit

Plus-II Regular Non-participating policies of insurance from the O.P. on his own life for a term of 10 years each on SA of Rs.1,25,000/- each with the Policies commencing from 04.03.2009 and 18.03.2009 respectively. The LA expired on 20.01.2010. Being the nominee, she filed death-claims with the O.P.which illegally and arbitrarily repudiated her claims on the ground of non-disclosure of material facts in the Proposal Forms relating to LA's pre-existing diseases in kidney and liver. It is further stated by her that to her knowledge, her husband was not suffering from any kidney disease at the time of taking of the policies. That apart, her husband was got thoroughly examined by the O.P.'s Doctor and no health-related problem or disease in him was found.

In the counter, it is stated by the Opposite party that the LA submitted proposal forms under his signatures with the declarations that obliged him to disclose every factual information as required therein, declaring that the facts and information furnished therein were true and complete and that on that basis. But in relation to questions concerning his diseases and sufferings , past & current, the LA deliberately suppressed material facts regarding his sufferings from disease of diabetes mellitus and chronic kidney disease which the Medical papers would disclose. Because of suppression of material facts, the claims were repudiated.

At hearing, the Complainant contended that the Agent of the O.P. filled up the proposal forms and that in the year 2007, her husband received treatment for Blood Pressure only and that he had no other disease and that all his health problems arose subsequent to taking the policy. The O.P.'s representative reiterated the facts as stated in the counter. He further submitted that the fund value of the two policies has been already paid to the Complainant to whom no further amount is payable.

AWARD :- Hon'ble Ombudsman observed that it is established from the medical papers that much before the date of submission of the Proposal Forms, the LA was suffering from Diabetes, and kidney disease and was on regular dialysis. But, the Proposer who took sick leave for treatment of his kidney disease, did not disclose these facts in the proposal forms. The Complainant has not raised any objection on the genuineness of these documents. Facts relating to the pre-existing diseases of the life assured are definitely material facts. Since these vital material facts have been suppressed by the life assured for taking the policies, the O.P. is legally entitled to avoid the contract of insurance. Thus, repudiation of the death claim as has been made by the O.P. is justified. The Complainant, therefore, is not entitled to any death claim.

Hence, Hon'ble Ombudsman dismissed the Complaint.

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BHUBANESWAR OMBUDSMAN CENTRE

COMPLAINT NO- 24-001-1380 DEATH

Smt Rukmani Bhue Vs. L.I.C. of india, Padmapur B.O.

Award Dated 21st July, 2011

FACT :- This complaint is filed against partial settlement of death-claim.

It is the case of the Complainant that her deceased husband (LA hereafter) had taken the New Bima Gold policy of insurance on his own life from the O.P. for basic Sum Assured of Rs.90,000/-. The policy commenced from 28.03.2008. On 24.07.2008 while going on a motor cycle a speeding bus dashed against his above motor cycle in consequence of which the LA lost his life. Being the nominee under the policy, she lodged the death- claim with the O.P. which paid her only the basic sum assured of Rs. 90,000/- ignoring completely the Accident Benefit amount to which, as per policy condition, she is also entitled to. Feeling aggrieved thereby, she has filed the present Complaint seeking a direction to the O.P. to pay her the equal amount of Rs.90,000/- towards the Accident Benefit.

In the counter, the O.P. while not disputing the fact of death of the LA in the accident, has stated that the Complainant was time and again asked to furnish the Driving Licence of the LA and was also contacted through its Agent. Yet the Complainant did not submit the D.L. for which it (O.P.) settled payment of the basic sum assured for Rs.90,000/- in her favour. It is further stated that for settlement of AB claim, verification of the D.L. of the deceased is required to find out if the same was valid on the date of accident. But the Claimant-has not complied with the requirement by filing the certified Xerox copy of the Driving License and that as soon as the same would be made available, it would process her claim for payment of Accident Benefit.

At hearing, the Complainant submits that her deceased husband was the pillion rider on the motor cycle when the accident occurred and that her husband did not hold any such license on the date of accident. She further submits that in course of the day, she would file an application with the O.P.'s representative mentioning this fact. On the other hand, while reiterating the facts as are advanced in the SCN, O.P.'s representative, submits that the office had taken several steps to obtain the D.L. from the Complainant who in lieu of filing the copy of the D.L. has filed an affidavit sworn before the Notary Public that her husband was a pillion rider and therefore, filing of the D.L. be not insisted upon. On the submission made by the Complainant during hearing, she contends that in the absence of the D.L. under the situation as it is now explained by the Complainant, it is possible to process the claim relating to AB in favour of the Complainant and that she wants 20 days time to complete the process.

AWARD :- Hon'ble Ombudsman observed that the policy condition provides for payment of additional sum equal to the sum assured as Accident Benefit and there being no dispute on the fact of accidental death of the Life Assured. Hence, Hon'ble Ombudsman directed the O.P. to settle the Accident Benefit claim of the Complainant within the period of 20 days in the light of the observation as made above.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.004.2638.

Smt.R.Usha vs ICICI.Prudential LIC Ltd.

The complainant had stated that her husband was having three policies ;two of them are taken for child education and the other policy for general investment cum life cover plan from 3.12.2008/4.12.2008 for a sum insured of rs1.80lakhs each.The LA died on 23.05.2009 due to massive upper gastron intestinal bleeding.The insurer denied the claim on account of the fact that the LA had a habit of chronic consumption of alcohol since many years and had history of Oseophageal bleeding 5 years back.Further as per medical records LA was operated for Fistula in Ano in the years 1992,1993,2005.Hence the claim was repudiated for suppression of material facts by LA at the time of taking the policy.

Award no-IO(CHN)L-063/2010-11 dt8 th April 2011.

During the hearing the complainant had raised the following issues;(1)When LIC has settled the claim why I.C.I.C.I is not settling the claim.

(2)She has also submitted a report from her Dr stating that Fistula operation had absolutely nothing to do with the demise.The insurer has submitted claim form A-Medical Attendant /Hospital where it is mentioned that LA was admitted to Sundaram Medical Foundation on 21.05.2009 for Hematemesis,patient himself reported the history of alcohol consumption occasionally for few years,patient was diagnosed for massive upper gastro untestinal bleeding,acute renal failure,severe portal hypertension.The report also states that that the patient had been treated earlier in the hospital from 24.01.2005 to 01.02.2005 as out patient for fistula-in Ano.The death certificate issued by Sundaram Medical Foundation certifies that LA died on 23.05.2009 and the cause of death is shown as Massive Upper GI Bleed with DIC+Acute Renal Failure +post CPR and Liver cirrhosis.specialist consultation report dated 21.05.2009 reveals that LA was admitted with complaints of vomiting blood and that he had taken alcohol 4 hours before start of bleed.The report also states that the patient had history of chronic alcohol intake for many years and known case of DM/Hypertension.

The complainant during the hearing said that to her knowledge her husband was in good health and did not have any health problem at the time of taking the policy.The insurer submitted that LA has answered No to Q20 relating to consumption of alcohol Q23(c),23(h),23(i) and all these questions are relating to health.All these factors indicate suppression of material facts in the proposal.Hence the decision of the insurer in repudiating the claim is fully justified but the insurer is not justified in denying the fund value under all these policies.Hence they are advised

to settle the Fund value under policies 10560183,10560422 and 10563054 for rs47,787.57,47,461.77,45,496.63 respectively.

The complaint is partly allowed.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.05.2669

Mr.R.Pachiappan vs LIC Salem

The complainant had stated that his wife had taken Money Back Policy from LIC for a sum insured of rs1lacfrom 13.08.2000 for a period of 12 years with half yearly premium of Rs6,042/-.She had paid the premium regularly upto 2004 and revived the policy in Feb 2005.She died on 26.01.2008 due to Diabetic Encephalopathy and the complainant had lodged a claim with the insurer which was rejected on the ground that LA did not disclose her DM in the self declaration at the time of revival.The insurer had stated that LA was suffering from Diabetic Mellitus and was taking treatment for the same.In view of non declaration of her health condition at the time of revival The policy is declared as null and void and hence the insurer has repudiated the claim.The paid up value before revival is payable.

Award no-IO(CHN)L-064/2010-11 dt 6th April 2011.

The complainant's wife had taken Jeevan Sanchay Policy for a SI of rs1lac and had revived the policy which was lapsed on 24.02.2005.Subsequently she died on 26.01.2008 due to Diabetic encephalopathy.As per the claim form B duly certified by the Medical Attendant the Dr states that LA died on 26.01.2008 and the primary cause of death was Diabetic Encephalopathy and Renal Failure.The Dr states that LA has been suffering from the disease for the past two years before her death.The report further states that the disease was first observed Two years back and treated at Manipal Hospital ,Bangalore.The copy of discharge summary from Manipal Hospital was also submitted.She was admitted on 30.09.2006 and discharged on 7.10.2006 and in the past history it is shown that patient is a known case of Type2 DM on insulin.During the hearing the complainant admitted that due to strenuous life and tiring walk to school affected her health and was taking medicines for Diabetes from 2003.The representative from the insurer submitted that the discharge summary from Dept of Nephrology reveals history diabetes since 12 years on treatment.Insurer said that LA was a diabetic and did not reveal the fact known to her at the time of proposing for the policy in 2000 and at the time reviving the policy in 2003 and 2005.The insurer was willing to pay the paid up value of rs5,000/- and guaranteed additions of rs28,000/-which had already accrued on the date of revival.the policy was taken in Feb 2001 and as on the date of death of LA the policy had run for more than 8 years

6 months and from the date of revival the policy was in force for almost 3 years.Taking all the factors into account the insurer is directed to pay an ex-gratia amount of rs 25,000/- over and above the sum of rs 33,000/-being the paid up value and guaranteed additions accrued till the date of revival of the policy.

The complaint is partly allowed on exgratia basis.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.03.2648.

Smt.M.Meena vs LIC Coimbatore

The complainant had mentioned that her husband had taken Jeevan Anurag policy on 28.03.2005 for a sum insured of rs 1lac with a yearly premium of rs8,758/-for a term of 15 years.He died on 15.02.2008 due to Renal cell carcinoma.The claim was rejected on the basis that her husband had withheld material information regarding his health ie he had suffered from Type II DM ,13 years prior to taking the policy.The complainant had argued that at the time of taking the policy he was healthy and he was not suffering from any ailment disqualifying him from taking the policy.Further her husband died due to cancerous tumor in the left kidney,jaundice,respiratory problem and not due to diabetes.According to her the cancerous growth was detected only 4 months before his death and till then he was normal and attending office.The insurer had stated that he had consulted a Dr for Type II Diabetes for the last 13 years and was on regular treatment.As he had withheld material information regarding his health the claim was repudiated.

Award no-IO(CHN)L-065/2010-11 dt 8thApril 2011.

The complainant's husband had taken Jeevan Anurag polcy commencing from 28.03.2005 for a sum insured of rs1 lac and he died on 15.02.2008 due to Renal Cell Carcinoma.The insurer has denied the claim due to suppression of material facts relating to his health.As per claim form B- Medical attendant's certificate issued by the DR ,the primary cause of death was Renal Cell Carcinoma with secondaries in both lobes of liver ,secondary causes are diabetes mellitus /jaundice/cardio respiratory arrest.Diseases or illness preceded or co-existed is shown as DM,nehrectomy done in 2007.As per death summary the cause of death is(i0RenalCell Carcinoma post Nephrectomy status-secondaries Both lobes of liver- progressive jaundice,(ii)diabetes mellitus and(iii)Cardio respiratory arrest.As per KHM Hospital Discharge Summary for hospitalisation from 11.12.2007 to 13.12.2007,LA was diagnosed and treated for Renal Cell Carcinoma/Anemia.In the history it is shown that LA is a known DM on OHA and known HT on pill.As per the discharge summary of Appasamy Hospitals patient had H/O T-2

DM for 13 years.The insurer had also given a letter issued by another hospital indicating that LA had taken treatment for Diabetes in 2006 in their hospital.In the chart issued by the Medical centre it is mentioned that DLA is a known case Diabetic since 1994.

The complainant had argued that at the time of taking the policy he had no ailment and further her husband died not because of diabetes but because of cancerous tumor in his left kidney,jaundice and respiratory problem.She said that her husband was taking treatment from 24.03.2006 for diabetes and later on he suffered from kidney problems.As the records of Madhav Diabetes Centre stating LA is known Diabetic since 1994 and the record of Appasamy Hospital dated Dec 2007 stating that LA had history of Type 2 Diabetes for 13 years on OHA ,corroborates each other,it can be believed that LA was suffering from diabetes for a long time prior to the date of proposal ie 28.03.2005.Hence the repudiation of the claim by the insurer is fully justified. However taking into account the economic condition of the complainant the insurer is directed to pay an exgratia amount of rs15,000/- in full and final settlement of the claim.

The complaint is partly allowed on ex gratia basis.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.02.2649.

Mr V.N.Subramaniam vs LIC Chennai.

The complainant,husband of the deceased LA stated that his wife was working as a primary teacher in Kendria Vidyalaya school and had taken Jeevan Astha policy by paying a single premium of Rs25020/-for a sum insured of rs1.5 lakhs from 21.01.2009.She died on 07.05.2009 due to sudden cardiac arrest;SLE/military TB/Pneumonia.The claim was denied by the insurer on the ground that the deceased LA had withheld material information regarding health (suffering from Rheumatoid arthiritis) at the time of taking the policy.The complainant had argued that it is not at all a life threatening disease and the insurer should not repudiate the claim on that ground.He further said that the cause of death was mainly due to drug induced diseases like ARDE/SEPSIS/Septic shock,SLE/Military TB/Pneumonia and cardiac arrest.She developed suddenly with jaundice Vasculticulcer,TB Pneumonia at Sundaram medical hospital in March 2009 and later shifted to Miot Hospital where she died on 7.05.2009.The insurer had argued that LA was suffering from Rheumatoid Arthritis from March 2007 and this was not disclosed in the proposal form .As she had withheld material information the claim was denied by the insurer.

Award no-IO(CHN)L-066/2010-11 dt6th April 2011

The complainant's wife had taken Jeevan Astha policy for a sum insured of rs 1,50,000/-from 21.01.2009 and she died on 07.05.2009.The claim was repudiated due to suppression of material facts relating to her health.However the insurer has agreed to pay an amount of rs22,518/-on ex gratia basis.the death summary states that LA was admitted elsewhere around 20 days ago was diagnosed to have SLE/Rheumatoid Arthiritis WithMilitary Tuberculosis with drug induced Hepatitis/underwent Hemodialysis twice .The DR has mentioned in his certificate LA was under his care from March 2007 for treatment of Rheumatoid Arthiritis Copies of prescription of various dates in 2007 and 2008 were also submitted by the insurer.The Medical Attendant's certificate shows SLE and Military Tuberculosis as other diseases preceded or co existed.During the hearing the complainant admitted that his wife had Rheumatoid Arthritis since March 2007 and only in March 2009 she developed fever and was diagnosed for SLE.The insurer's representative submitted that the certificate issued by the treating Dr at Apollo Hospital confirms that LA was under his treatment for Rheumatoid arthiritis since March 2007.LA had not disclosed her sickness in the proposal form. It is also observed that LA was admitted at Sundaram Medical foundation hospital on 9.04.2009 within 2 months of taking the policy. Considering the severity of diseases she was diagnosed for ,it is difficult to believe that these diseases developed within 2 months.Considering all aspects the action of the insurer in repudiating the claim is fully justified.Further the insurer has come forward to refund a sum of rs 22,518/-(being 90%of the single premium of rs 25,020/-paid by the LA)

The complaint is dismissed.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.009.2668.

Mr.B.Veeraraghavan vs Bajaj Alliance LIC Ltd.

The complainant,father of the deceased LA stated that his son had taken Family Assure policy with the above insurance co for a sum insured of rs3lakhs from 25.08.2008 with half yearly premium of rs 5,000/-He informed that his son died in a Road accident on 04.06.2010 and the insurer had settled the basic sum amount of rs3,10,349/- but rejected accident benefit claim stating that DLA was charged under various sections for breach of law.The insurer had mentioned that the deceased LA was charged under different sections of IPC like 304A(causing death by negligence),337(causing hurt by act endangering life or personal safety of others) and 279(rash driving or riding on a public way)As per the policy terms and conditions ,the accidental death benefit shall not be paid to the claimant as death occurring as a result of the injured person committing any breach of law.The insurer stated that in view of the above provision the claim was denied.

Award no-IO(CHN)L-067/2010-11 dt6 thApril 2011.

LA had taken Family Assure policy for a sum insured of rs 3,00,000/- commencing from 25.08.2008 and he died on 4.6.2010 in a Road Accident.The insurer has settled the basic sum insured and denied accidental benefit since the LA was charged under various sections of breach of law.As per policy terms and conditions the clause pertaining to Accidental Death benefit reads as under:-

The additional amount payable in the event of accidental death shall be the lower of

(i)the basic sum insured,

(ii)rs50,00,000/-under all the policiesof the LA taken together

The clause provides for exclusion

In the following cases,the death benefit shall be paid but the accidental death benefit shall not be paid

(a)Death occurs as a result of the insured person committing any breach of law

In the present case LA died in a Road accident while he was driving a motor cycle.He was charged under IPC sections like 304-a,337 and 279 in the FIR.As per the post mortem report LA died due to head injury.The police final report dated 29.11.2010 states that "no one is responsible for the accidental death of Mr Aravindan and while he drove his Motor Cycle dashed against a cyclist and in that accident he sustained injury and died.Hence further action in this case has been dropped once for all."From the above it is established that no judicial verdict has been passed in the case declaring that the deceased had committed Breach of law based on what is mentioned in FIR/Police Inquest Report .Further the narrative part of FIR does not contain any thing about negligent or dangerous driving

The exclusion clause provides that Accidental death benefit shall not be paid where death occurs as a result of the insured person committing any breach of law.This clause is to be applied only when the death is the direct consequence of breach of law and not when breach of law causes accident and injuries sustained therein cause the death.Considering all aspects the death of LA was due to accident as envisaged in the accidental death benefit clause and hence the insurer is not justified in denying the claim. The insurer is hereby directed to settle the Accidental Death Claim benefit of rs3,00,000/-to the complainant.

The complaint is allowed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.002.2655.

Smt.S.Padma vs SBI Life Ins Co Ltd

The complainant had stated that her husband had taken Life policy from the above insurance co for a sum insured of Rs 3lakhs from 31.10 2007 with a single premium of rs11,168/-for a term of 15 years.He died on 13.05.2010 due to Myocardial Infarction with left ventricular failure.The claim lodged by the complainant was repudiated since her husband was physically disabled prior to the commencement of the policy and this fact was not disclosed at the time of taking the policy.The complainant had argued that her husband was discharged from the military during July 2006 and he completed his service without any complaint of physical disability.The insurer had mentioned that he had not disclosed the material facts at the time of signing the contract of insurance and hence the claim was denied.

Award no-IO(CHN)L-068/2010-11 dt06 th April 2011.

The complainant's husband had taken a SBI shield policy for a sum insured of rs3 lacs commencing from 31.10.2007 and he died on 13.05.2010 due to heart attack.The insurer had repudiated the claim on the ground that LA has answered NO in the proposal form to Qno7(xiv)-'do you have any physical defect or deformity"whereas the records available revealed that the LA was physically disabled prior to the date of commencement of the policy.As per the death certificate the primary cause of death was Myo cardial Infarction.The Dr has also certified that LA had smoking habits for the last 15 years and alcohol consumption for 15 years.The other diseases which co existed or pre existed are shown as Diabetes,and Hypertension and the duration is not shown.the booklet- certificate of Discharge issued by the Army shows the reason for discharge as Discharged under rule 13(3) itemIII (V) in conjunction with sub clause 2A being placed in Medical Category lower than AYE and not up to the prescribed Mil physical std.The pension payment order issued by office of the PCDA,Allahabadreveals the deceased life assured who was a sepoywas sanctioned rs1,163/-from 01.07.1936.being Disability ,element.The complainant submitted that her husband completed Military service without any complaint of physical disability and was discharged during july 2006.The insurer submits that I the proposal form the LA had answered NO to Q no7-(xiv,xvi,xviii,xx,xxi).The insurer was able to establish that deceased LA had some physical disability,was smoking and taking alcohol for 15 years.The fact of physical disability and the habit of smoking and consumption of alcohol were within the knowledge of the DLA and therefore giving false answers to questions in the proposal amounts to suppression of material facts.Hence the decision of the insurer in repudiating the claim is justified.

The complaint is dismissed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.05.2667.

Smt.E.Kavitha vs LIC Salem.

The complainant's husband had taken Jeevan Anand policy from LIC for a sum insured of rs 2lakhs with half yearly premium of rs5,839/-from 28.12.2005.He died on 16.01.2007 due to Kidney failure.LIC had repudiated the claim due to suppression of material facts.The insurer had mentioned that LA was suffering from chest ailment before the date of proposal and did not disclose these facts in the proposal.As he had withheld correct information regarding his health from them at the time of effecting the insurance the claim was repudiated.

Award no-IO(CHN)L-069/2010-11 dt 6th April 2011.

The complainant had stated that her husband did not have any chest problem as alleged by the insurer and used to consult local DR for cough and cold only.In the claim form B duly attested by the Medical attendant LA died at home on 16.1.2007 and the primary cause of death was Kidney failure and the secondary cause was shown as TB/HIV.The Dr has stated that the patient was suffering from the disease for the last 3 months and they were first observed by the deceased on 26.09.2006.In the certificate for Hospital treatment (form B-1) the DR has stated that DLA was admitted on 16.01.2007 and was diagnosed for Acute Renal Failure and he had tuberculosis and AIDS.The DR of Udayam Hospital has issued a letter dated 16.10.2007 stating that the deceased got admitted on 26.09.2006 and was discharged on 11.10.2006.The diagnosis was Tuberculosis with pleural effusion with stage III AIDS.The insurer has also filed a certificate dated 13.12.2007 issued by another DR stating that deceased LA was his patient and he used to take treatment for respiratory diseases and gastro intestinal disease in 2004-05.

From the above records it is evident that LA was suffering from TB and Stage III AIDS before his death.The death is attributable to Acute Renal Failure and not chronic renal failure.Therefore it is possible that LA might have developed Acute Renal failure subsequent to the date of proposal.Further as per records TB and Stage III AIDS was reported to have been diagnosed for the first time on 26.09.2006 which is subsequent to the date of proposal.The insurer was not able to establish that DLA was suffering from chest ailments before the date of proposal.DLA might be suffering from all these ailments before the date of proposal but there is no document to establish that DLA was in the knowledge of his illness.Taking all factors into account the action

of the insurer in repudiating the claim is not in order and they are advised to settle the claim for the full sum assured under the policy.

The complaint is allowed.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.04.2693.

Mr.U.Chinna Subbiah vs LIC,Madurai.

The complainant,husband of the deceased LA stated that his wife had taken a New Janraksha Policy for a sum insured of rs30,000/-commencing from 15.03.2006.She died on 26.11.2009.and the claim was denied on the ground that LA had not disclosed her correct age at the time of proposal.The complainant had mentioned that LA was illiterate and so she was not aware that the age was wrongly stated in the proposal.The insurer had mentioned that LA has grossly understated her age by about 10 years at the time of proposing for the assurance.The age of DLA was mentioned as 62 years whereas it is stated as 49 years in the proposal.The deceased was not less than 55 years of age at the time of proposal for assurance and was therefore of an uninsurable age at the time of assurance under this plan.As her age was understated at the time of proposing her life for assurance the claim was repudiated for suppression of material facts.

Award no-IO(CHN)L-071/2010-11 dt8thApril 2011.

The complainant's wife had taken a New Janaraksha policy for a sum insured of rs30,000/-from 15.03.2006 and died on 26.11.2009.The claim was repudiated on the grounds that the insured had suppressed her age by about 10 years at the time of submitting the proposal.It was observed that LA has declared her age as 49 years mentioning her date of birth as 01.07.1957.in the proposal dated15.03.2006.She has nominated her husband by mentioning his age as 65 years.In the statement to be submitted by the proposer /Agent in Form3260 the LA has declared her DOB as 01.07.1957.The death of LA issued by Village Admn shows the age of LA as 62 as on death.The ration card issued in 2005 to the complainant shows the age of LA as 58 years.The election ID card shows the age as 54 years as on 01.01.95.Based on this the age of LA on the date of proposal would be 59 years instead of 49 years as per proposal.During the hearing the complainant ,son of LA admitted that he was third child born in 1970 and his mother was 20 years older to him.He is now 42 years.

Based on all the above it can be concluded that there is clear understatement of age by 10 years.It is evident from the death certificate the age of the LA as on date of the proposal would be 59 years.Thus it is proved beyond doubt that the age of the LA is grossly understated by 10

years in the proposal.It is a known fact that the premium payable for a life insurance policy increases with the age of LA as the life risk increases.The insurer had argued that had the life assured revealed her correct age they would not have accepted her proposal as the maximum age at entry for the proposed plan is 50 years.Thus the non disclosure of correct age in this case amounts to suppression of material fact which makes the contract invalid.Hence the repudiation of the claim by the insurer is justified.It is to be noted that the policy has run for more than 3 years and the LA was a milk vendor and may not have suppressed the age deliberately.Taking into account the economic condition of the complainant an ex gratia amount of rs 5,000/- is awarded to be paid by the insurer in full and final settlement of the claim.

The complaint is partly allowed on ex gratia basis.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.04.2696.

Smt.R.Indira vs LIC Madurai.

The complainant had stated that her husband had taken profit plus ULIP policy for a sum insured of rs2 lakhs with yearly premium of rs25,000/-commencing from 08.02.2008.He died on 02.07.2008 due to cancer.The complainant stated that they came to know only in May 2008 that he was affected by cancer.The insurer denied the claim due to suppression of Diabetes by the LA at the time of taking the policy.The complainant had argued that her husband died due to cancer and not due to diabetes.The insurer had stated that LA was suffering from diabetes for 10 years and had also availed sick leave on various dates which were prior to proposal.He had not disclosed the above facts in the proposal form and hence the claim was denied.The insurer said that surrender value held in the policyholder's fund value can be paid.

Award no-IO(CHN)L-072/2010-11 dt 8 th April 2011

The complainant's husband had taken a profit plus policy for a sum insured of rs2 lakhs from 08.02.2008 and died on 02.07.2008 due to cancer.The Insurer repudiated the claim due to suppression of material facts relating to health.As per claim Form B duly attested by the Medical attendant the primary cause of death was Heart attack and cancer.Prior to this he was admitted in hospital from 7.05.2008 to 29.05.2008 he was diagnosed for very large Malignant Tumor –inopearble because of involvement of great vessels and other important structures.In the clinical features on Admission it has been mentioned that LA was a known case of Type2 DM-10 years.LA had taken treatment in another hospital from 29.05.2008 to

13.06.2008 wherein they have stated that LA is a known diabetic on treatment and also a known case of HT on treatment.During the hearing the complainant argued that her husband died of cancer and not due to DM and hence requested the settlement of the claim.

DLA had availed Medical leave in 2005 which was not disclosed in the proposal.LA was suffering from DM and HT much before submitting the proposal.The Hospital discharge summary also states that LA was a known case of Type2DM –10 years which is prior to the date of proposal.All these clearly indicate that LA was not enjoying good health at the time of submitting the proposal and non disclosure of his illness in the proposal should be regarded as suppression of material facts.Considering all aspects the decision of the insurer in repudiating the claim is fully justified.The insurer has agreed to settle the fund value of rs11,995/-Taking a sympathetic view due to the economic condition of the complainant an ex gratia amount of rs10,000/- is awarded to be paid to the complainant by the insurer.The complaint is partly allowed on exgratia basis.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.07.2697.

Mr.K.Subburaj vs LIC Tveli

The complainant stated that his wife took a policy with the above insurer for a sum insured of rs2lakhs with a qly premium of rs 4,704/-commencing from 09.01.2001.She died of heart attack on 08.08.2008 and the claim was denied by the insurer on the ground that DLA suppressed the fact that she had suffered from dilated cardiomyopathy for 10 years for which she had consulted and taken treatment from a Doctor.As per the version of the complainant she was free from any ailment and she suffered from chest pain on 18.07.2008 and was immediately admitted to the hospital.The doctor found that she had suffered from cardiomyopathy and took treatment for 6 days and she was discharged on 23.07.2008 in good health condition.She also joined duty and all of a sudden she had heart attack and died on 08.08.2008.According to the insurer LA did not disclose her illness in her proposal and as she had withheld material information regarding her health from the insurer at the time of effecting the insurance the claim was repudiated.

Award no-IO(CHN)L-073/2010-11 dt 11th April 2011.

The complainant's wife had taken two policies Jeevan Mitra for a SI of rs2 lakhs (policy no-320904851)and Money Plus Policy for a SI of rs1 lac(policy no-322146326) and died on 8.8.2008 due to heart attack.The insurer repudiated the claim under one policy for nondisclosure of material facts by the DLA regarding health at the time of effecting the policy.In respect of another policy the insurer was willing to pay fund value.Jeevan Mitra policy had lapsed for non payment of premium since 9.01.2005and was revived on 3.09.2005 based on medical reports and personal statement of health.In the claim form B-1 the Medical attendant has certified that DLA was admitted from 18.07.2008 to 23.07.2008 with complaints of leg swelling and difficulty in breathing.In relation to any other disease which preceded or coexisted ,the DR mentions Cardiomyopathy and the date first observed as 10 days back.The period mentioned as years has been struck off and days are mentioned and counter signed.

On a perusal of various records the following points emerge;

LA was a staff nurse and expected to know about her health.

The Hospital records indicate that LA suffering from cardiomyopathy for 10 years prior to her death which goes back to prior to the date of proposal.

The leave availed by LA prior to the date of proposal cast a shadow on the health condition of LA.

Both the risk and revival was accepted after LA was subjected to Full medical examination ,ECG and blood glucose tolerance test. The authorized Medical Examiner should have come to know about the Heart condition of the LA during their examination.The first policy has run for 7 years,6 months and the second policy for 1 year 4 months.Taking all the factors into account and to ensure equity ex gratia amount is awarded as below

(i)Under policy no320904851 to pay rs2,00,000/-

(ii)Under policy 322146326 to pay rs50,000/-apart from the fund value paid.

The complaint is partly allowed on ex gratia basis.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.07.2725.

Ms.S.Delphin Nisha vs LIC Tveli.

The deceased LA had taken Jeevan Anand policy for rs 1 lac on 06.12.2005 and she died on 28.01.2007 due to jaundice/cardiac arrest.The claim was denied on account of the

fact that DLA had been suffering from ovaries cyst for which she had availed leave on medical grounds and had taken treatment in a hospital prior to date of proposal and also on date of proposal.She did not disclose these facts in her proposal. Further the insurer had also said that LA was on continuous sick leave for a period 99 days As she had withheld material information regarding her health from the insurer at the time of effecting insurance and the illness prior to the proposal and treatment are established the claim was repudiated.

Award no-IO(CHN)L-074/2010-11 dt11th April 2011.

The LA was employed in TNEB and the policy was taken under salary saving scheme and died at her residence on 28.01.2007.The complainant had stated that her Aunt was a spinster and admitted that she underwent operation during 2005 and subsequently died on 28.01.2007.The Medical Attendant's certificate (form B)has mentioned the cause of death as Jaundice and cardiac arrest.No history of disease coexisted or pre existed.The insurer's representative contended DLA had availed 54 days leave from 29.08.2005 to 21.10.2005 and again 24.10.2005 to 7.12.2005 for lower Abdominal pain and ovarian cyst.The proposal was submitted on 30.11.2005 when the LA was on medical leave and had been diagnosed for ovarian cyst.Hence of material fact has been established.Considering all aspects the repudiation of the claim by the insurer is fully justified .However the Insurer has taken more than 2 years to repudiate the claim and has thus caused avoidable delay in communicating to the claimant.Hence an ex gratia amount of rs10,000/- is awarded to be paid to the complainant by the insurer in full and final settlement of the claim.

The complaint is partly allowed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.016.2727.

Mr.A.Thirumurthy vs Shriram Life Ins Co Ltd

The complainant stated that his wife had taken two Shri Plus policies with single premium mode for SA of rs3,25,000/-on 06.08.2007 and rs2,50,000/-on 06.07.2007.She died on 23.10.2009 due to cardio respiratory arrest.The claim lodged by him was denied on the ground that the deceased LA died due to congestive cardiac failure and was operated for aortic valve replacement surgery in 1998.This was not disclosed in the proposals dt 26.07.2007 and 23.06 2007.The complainant stated that the congestive cardiac failure is due to bilateral plural effusion and nowhere the valve replacement is linked with the bilateral pleural effusion.Also in the

operation record issued by the hospital w.r.t the Aortic Valve replacement surgery in 1998 it is stated that the problem is congenital.As per the version of the complainant the death was not due to Aortic Valve replacement surgery done in 1998.The insurer had argued that had the LA correctly informed the insurer about the health problems it would have influenced their decision in issuing the policy.As the LA had suppressed material facts at the time of taking the policy,the claim was repudiated.The insurer had mentioned that the fund value for the two policies amounting to rs2,33,796/- and rs3,01,442/-is payable.

Award no-IO(CHN)L-075/2010-11 dt 11th April 2011.

The complainant ahd mentioned in his written submission that the disease is not due to aortic valve replacement surgery done in 1998,hence not mentioning the same in the proposal due to oversight is insignificant and rejection of claim on such factor is not valid.As per the Medical certificate of the cause of death issued by the hospital LA died due to cardio respiratory arrest ,congestive cardiac failure. The antecedent cause was sepsis/Pleural effusion and renal dysfunction.In claim form B the DR has stated that other diseases or illness preceded/co existed as aortic valve replacement 1998 and cerebro vascular accident in 2008.At the time of terminal illness the LA had been admitted in a hospital and the diagnosis clearly read S/P AVR 1998.The insurer has stated that this is a clear case of suppression of material fact and hence they have rejected the claim.However the fund value under the policies amounting to rs2,33796/- and 3,01,442/-have been paid by the insurer.Considering all the facts the insurer is justified in repudiating the claim.

The complaint is dismissed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.009.2756.

Smt.R.Rani vs Bajaj Alliance LIC Ltd.

The complainant stated that her husband had taken a family assure policy on 12.09.2008 and paid a premium for 2 years with half yearly premium of rs5,000/-and the sum insured of rs 1,50,000/-.Suddenly he died on 04.06.2010 due to severe stomach pain.The insurer denied the claim on account of the fact the deceased LA had family history of suicide (sister),2 suicide attempts by self in mid 2008.Also LA was suffering from depression since 3 years,alcoholic habits and drugs abuse since 10 years .Family history of suicide and other

information mentioned earlier were not disclosed in the proposal.Hence the claim has been repudiated by the insurer due to non disclosure of material facts.

Award no-IO(CHN)L-076/2010-11 dt18thApril 2011.

The complainant had stated in her letter sent to the insurer that (i)they have no family doctor;(ii)she and her husband do not have proof for the date of birth;(iii)on the night of 4.06.2010her husband had taken alcoholand some poison,she was informed the next day at her native place,when she came to her husband's place on 5.06.2010 he had already expired,she did not inform the police and post mortem was not done;(iv)since no doctor attended,they can not get the certificate of cause of death.The insurer had arranged for investigation who has mentioned that LA was in to real estate business and ended up incurring huge losses about 2 years back and went into depression; He was an alcoholic since 10 years and was in the habit of drug abuse since 10 years;He consumed poison with alcohol which led to his death;Twice he had attempted suicide in mid 2008 and was suffering from depression.The insurer has also submitted Hospital record where LA took treatment which showed that for the past 3 years duration twice he attempted suicide.There is a mention of Alcohol use –10 years duration,history of drug abuse-past 10 years.During the hearing the complainant admitted that her husband was drug addict and an alcoholic for a long time and was not keeping good health.

The insurer's representative could not answer as how the family history of suicide would have affected the underwriting decision in the case;The proposal does not contain any specific question relating to life assured undergoing depression or whether he had attempted to commit suicide.Hence LA can not be charged for suppression of above facts.Considering all aspects though the insurer is justified in repudiating the claim,taking into account the economic condition of the complainant an ex gratia amount of rs10,000/-is awarded in addition to the fund value of rs9,792/-.

The complaint is partly allowed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no—21.02.2778.

Smt Janaki Kumar vsLIC Chennai.

The complainant stated that her husband had taken Money back policy for a sum insured of rs 50,000/-on 28.07.2002 and he died on 24.11.2009.due to renal failure.The insurer had rejected the claim on account of the fact that deceased LA was a known case of chronic renal failure and systemic hypertension and had been on haemodialysis since 2006.LA had not disclosed these facts in the personal statement submitted while reviving the policy on 15.10.2009.As the material information was withheld from the insurer regarding his health at the time of getting the policy revived and in terms of declaration signed by him at the foot of the said personal statement,the revival of the policy is declared void.Therefore the insurer had informed that the claim can be entertained for the paid up value of the policy amounting to Rs.16,450/-

Award no-IO(CHN)L-077/2010-11 dt18thApril2011

The complainant had admitted that her husband was diagnosed for Bpin 2004 foloowed by Heart problem and kidney problems and that he had undergone dialysis during 2007-08.She also admitted that her husband's signature was obtained for reviving the policy on 15.10.2009 when he was in hospital.The medical Attendant's certificate (Form-B) states that the primary cause of death of LA was SHT/ESRD and secondary cause was pulmonary tuberculosis.The DR stated that LA was suffering from this disease for 3 years before his death.He also certified that DLA was treated for chronic kidney disease Stage III by him during the last 3 years.From the records made available it is noted that DLA had earlier undergone surgery for Hydrocele-® Orchidectomy and excision of SAC on 29.07.2009.The investigating officer has mentioned that DLA was taking treatment for kidney failure since 2006 in a hospital.All the above facts have not been disclosed by the LA in the personal statement of health dated 9.09.2009 submitted for revival of the lapsed policy and the statement was signed by him when he was in the hospital.Hence in the present case non disclosure of material facts at the time of revival is clearly established.Considering all the facts the repudiation of the claim by the insurer is fully justified and the offer of the insurer to settle the paid up value with accrued bonus on the date of revival is fair enough.

The complaint is dismissed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.08.2782.

Smt.M.Kareema Bee vs LIC Vellore

The complainant had stated that her husband had taken a policy from LIC from 28.10.2008 for a sum insured of rs1 lac with a yearly premium of rs 10,792/-.He died on 31.03.2009 due to Chronic renal failure.The claim was denied by the insurer on the ground that DLA had suffered from uncontrolled diabetes mellitus for which he had consulted a Doctor and had taken treatment from him from 5.5.2008 to 26.12.2008.He did not disclose these facts in the proposal form and if the LA had disclosed this fact at the time of proposal they would have called for special BST and physician's report and treatment details.As the LA had suppressed the material facts at the time of taking the proposal ,the claim was repudiated.

Award no-IO(CHN)L-078/2010-11 dt18thApril 2011.

The complainant stated that LA was admitted in the hospital on 30.03.2009 and died on 31.03.2009.Medical Attendant's certificate (Form-B) staes that the primary cause of death was chronic renal failure and secondary cause was Septicemia.The DR states that LA was suffering from this disease since 3 months.In reply to question –What other diseases or illness preceded or co existed The DR replies that DM- 15 years.One more certificate issued by the hospital (form-B-1)mentions history of diabetes without mentioning the duration.The medical certification of cause of death certifies that the deceased LA died in Dialysis ward under dialysis unit Nephro on 31.03.2009.The cause of death is mentioned as Chronic Renal Failure with Septicemia.The insurer has also submitted copies of reports/case sheets ranging from the date 05.05.2008 to 26.12.2008 in which the DR has certified that LA had consulted him for the first time on 05.05.2008 and since then came to his clinic 7 times for consultation.He was suffering from uncontrolled Diabetes.During the hearing the complainant admitted that her husband was a diabetic for several years.

The records point to DLA suffering from diabetes mellitus for the past 15 years.The case sheets of the hospital point out that LA was suffering from uncontrolled diabetes and was on treatment prior to the submission of the proposal dated 31.10.2008.LA has not disclosed his illness referred above in the proposal dated31.10.2008.The suppression of material facts in the proposal is clearly established.Hence the decision of the insurer in repudiating the claim is fully justified but considering the financial position of the complainant and all the facts an ex gratia amount of rs10,000/- is awarded to be paid to the complainant by the insurer in full and final settlement of the claim.

The complaint is partly allowed.

CHENNAI OMBUDSMAN CENTRE

Complaint no-21.08.2798.

Smt .E.Kullammal vs LIC.

The complainant stated that her husband had taken a policy from LIC on 28.10.2002 for a sum insured of rs 50,000/- for a quarterly premium of rs1,020/-.The policy was revived on 02.05.2008 and died on 29.07.2008 due to heart attack.LIC denied the claim stating that her husband had stated incorrect age in the proposal and LA had grossly understated her age by about 9 to 11 years at the time of proposing for the assurance and at the time of getting the policy revived.The insurer had stated that in terms of the declaration signed by him at the foot of the said personal statement ,the revival of the policy is declared void and hence nothing would become payable under the policy.

Award no-IO(CHN)L-079/2010-11 dt22nd April 2011.

The complainant's husband had taken an Endowment policy for a sum insured of rs50,000/- for a term of 15 years from 28.10.2002.The policy had lapsed due to non payment of premium since 28.10.2003.The policy was revived on 02.05.2008 by submitting a personal statement and Medical report dated 30.04.2008.The claim was repudiated for under statement of age by the proposer at the time of taking the policy and also at the time of reviving the policy.Age of the deceased LA as per various records is as follows;

(i)Asper the proposal dated 28.10.2002-50 years (13.11.1952)-age proof submitted horoscope.

(ii)Asper ration card issued in 2005-64 years.Based on this age as on the date of proposal would be 61 years.

(iii)Age as per Voter's ID card –58 years as on 01.01.1995.Based on this his age as on the date proposal would be 65 years.

(iv)Age as per Tamilnadu Agricultural Labourers Social Security Welfare Scheme-2006 membership card –64 years.Based on this his age as on date of proposal would be 60 years.

(v)Age at death as per death certificate –57 years.Based on this age as on date of proposal-51 years.

It was mentioned that the age of the LA was admitted at the time of proposal based on the horoscope.The complainant mentioned during the hearing that there is no Horoscope for any of her family members.From the above it is clear age of LA on the date of proposal would have been more than 60 years whereas the policy was obtained declaring the age as 50 years based on Horoscope submitted in this regard.Further the Age at entry of the proposer which is beyond 60 years make him ineligible for the policy under question.Age of the LA in a contract of Insurance is an important factor which has a bearing on the Mortality and a factor in deciding the premium to be charged under the plan proposed.Considering all factors the repudiation of the claim by the insurer is fully justified.The complaint is dimissed.

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CHENNAI OMBUDSMAN CENTRE

Complaint no-21.06.2797

Mr.A.T.Venkatesan vs LIC Thanjavur.

The complainant stated that his son had taken one New Jana raksha Policy from LIC from 21.02.2009 for a sum insured of rs50,000/-with a half yearly premium of rs 1,226/-.He died on 26.05.2009 due to kidney failure.The claim was denied on account of the fact that LA was suffering from Kidney failure for which he had taken treatment and the LA had not disclosed all these facts in the proposal.The complainant stated that since the proposal was in English he was not explained the details of the proposal while taking the policy.He said that he has not concealed any fact and not given any false information at the time of taking his son's policy.The insurer stated that as the LA had withheld material information from the insurer regarding his health at the time of effecting the assurance and hence in terms of policy contract and declaration contained in the form of proposal for assurance ,the claim was repudiated.

Award no-IO(CHN)L-080/2010-11 dt 22nd April 2011.

During the hearing the complainant admitted that he took the policy in the name of his son.He also admitted that his son was in the hospital during Nov 2008 and died on 26.05.2009 due to kidney failure.The insurer had investigated the claim and as per the investigator (i) LA was suffering from epileptics before the date of proposal (ii) has been referred to Govt Hospital ,Chennai (iii)Nephrology opinion obtained on 26.10.2008-advised to have renal transplantation (iv)Was also treated at Thanjavur Medical College Hospital from 17.11.2008.The insurer has filed copies of case sheets relating to hospitalisation of the LA.LA was admitted at Thanjavur Medical College Hospital on 24.10.2008 and discharged on 1.11.2008 was diagnosed for status Epilepticus.LA was admitted to Govt General Hospital from 17.11.2008 to 20.11.2008. The insurer mentioned that Hospital records clearly reveal that LA was suffering from Epileptic attacks,CKD,HT and Encephalopathy.The LA had suppressed all

these facts in the proposal submitted for the insurance. Considering all the facts the repudiation of the claim by the insurer is fully justified.

The complaint is dismissed.

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GUWAHATI

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/002/108/L/10-11/GHY

Mrs. Golapjan Begum

- Vs -

SBI Life Insurance Co. Ltd.

Date of Order : 19.09.2011

Complainant : The Complainant has stated that Mr. Nurul Haque Ali, husband of the Complainant, procured the above policy from the above Insurer for a Sum Assured of Rs.1.00 Lacs. It is stated that the Insured died on 10.01.2010. The Complainant, being the nominee and legal heir of the Insured, submitted the death claim being supported by documents and hence this complaint.

Insurer : The Insurer has stated in their "Self Contained Note" that the DLA is reported to have died on 10.01.2010. The policy resulted in a claim in 1 year 2 months. So SBI Life Insurance Co. Ltd. enquired into the matter and found that the DLA was suffering from Type II Diabetes Mellitus and Hypertension prior to the date of commencement of the which he has not disclosed in the proposal form. The DLA committed the breach of the doctrine of "Utmost Good Faith". Hence repudiation of the claim is just and legal.

Decision : I have gone through all the documents available on record including the statements of the parties. It reveals that the policy commenced on12-11-2008 and the

proposal was signed on 31/10/2008. The insurer meticulously dug out illness history as given below.

a) DLA was admitted in Dr.B.A.Saikia Memorial Nursing Home on 15/03/04 and was discharged on 21/03/04. He was treated for Type 2 DM, HTN and depression. (Annexure - III)
b) Vide diagnostic Report dtd 09/08/04 from the same Nursing Home he was diagnosed to be a case of chronic calculus cholisystitis (Exhibit D).
c) He was admitted in Sanjeevani Hospital on 07/04/08 and discharged on 10/04/08 and was treated or Tye 2 DM and Bipolar affective Disorder (menia). It was just 6 months prior to signing the proposal (Exhibit E).
d) Besides above the DLA was also treated by Dr. Bijoy Choudhury (prescription dtd. 17/03/08 and 06/04/04, 25/02/05 and another date not legible, 05/09/04,19/03/04, photocopies of which are furnished.

A close scrutiny of the entire materials on record makes it ample clear that the DLA had gone for treatment on different occasions for Hypertension, Diabetes, problem related to gall bladder etc. prior to the date of procuring the policy. This entire medical history was concealed in the proposal form (Annexure – II). Thus the principle of "Uberrima fides" was violated. It is abundantly clear that the Insured suppressed particulars of his previous insurance policies which were quite material for consideration at the time of accepting the proposal. Therefore, the Insured was guilty of non disclosure of "Utmost Good Faith" violating the principle of contract of insurance. With the above observation, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/001/072/L/10-11/GHY

Md. Abdul Malik Talukdar (son) & Mrs. Kamal Khatun (mother)

- Vs -

L.I.C. of India

Date of Order : 05.09.2011

Complainant : The policyholder had total nine numbers of policies out of which five have been admitted and current four policies were repudiated by the Insurer for non-disclosure of previous insurance history. The complainant is of the view that as the policies were issued claim must be paid.

Insurer : In the "Self Contained Note", the Insurer submitted that the Insured did not mention the earlier policy particulars and thereby he suppressed the material facts. It is also stated that his annual income was not sufficient to support premiums for nine policies. That apart misleading annual income were shown giving different income in different policies. It is also stated by the Insurer that in the proposal form against policy No. 442925678 earlier two policies were inserted in the proposal form after the decision. It is further stated that while submitting proposal for policy No. 442929680, all the previous policies were not mentioned. Had he disclosed the earlier policies, Haemogram, ECG, HIV, Lipidogram, RUA, X-Ray, BST, SBT – 12 would have been required for acceptance of the proposal. But for non mentioning of all the previous policies, the proposal was accepted with Medicla Report only. In respect of policy Nos. 443406261 & 443407684, all the previous policies were not mentioned in the proposal forms. Thereby the DLA had suppressed the material facts which were within his knowledge. Therefore, all the above four policies were repudiated by the Insurer.

Decision : According to the Complainant, his father Md. Abdul Gafur Talukdar procured 9 (nine) LIC policies. On the death of his father, he received the claim amount in respect of Policy Nos. 442113577, 442119348, 442922730, 442923886 & 442931917 as a nominee. But LIC did not make payment in respect of Policy Nos. 442925678, 442929680, 443406261 & 443407684 on the plea that those policies were repudiated due to non disclosure of the previous insurance policies. According to him, he is entitled to get the claims amount in respect of all the above policies and LIC has no ground to repudiate these 4 (four) policies.

I have carefully gone through the entire documents available on record including the "Self Contained Note" of the Insurer and the statement of the Complainant. The copies of proposal forms in respect of the repudiated policies are made available to us. These proposal forms show that the L.A. did not mention his previous policies in the particular column No. 9 of the proposal forms for which the Insurer accepted the proposal forms without some specific medical reports which were very much essential for taking the life coverage of the policyholder. It is the fundamental principle of insurance law that

"Utmost Good Faith" must be observed by the contracting parties and the good faith forbids either party from non-disclosure of the facts which the parties know. The Insured and the Insurer must disclose all the relevant particulars which are within their knowledge.

In the case in hand, it is abundantly clear that the Insured suppressed particulars of his previous insurance policies which were quite material for consideration at the time of accepting the proposal. Therefore, the Insured was guilty of non disclosure of "Utmost Good Faith" violating the principle of contract of insurance.

In the back drop of the above facts and circumstances of the case, I am of the considered view that the Insurer has rightly repudiated the above policies and no interference is called for from this end. With the above observation, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/009/078/L/10-11/Ghy

Md. Mahboob Ahmed

- Vs -

Bajaj Allianz Life Insurance Co Ltd.

Date of Order : 19.09.2011

Complainant: The complainant has stated that Mrs. Marzina Begum procured the above policy from the above insurer with the Date of Commencement on 30/06/2009 for a sum assured of 2.5 lacs. But the policy holder died on 15/08/2009. The complainant submitted the claim supported by documents. But the insurer repudiated the claim. Feeling aggrieved, he has approached this authority for redressal of his grievance.

Insurer : In the self contained note the insurer stated that it was a very early claim with duration of only 1 month 15 days. In the proposal dated 15/06/09 the DLA concealed her

medical condition who was a patient of HTN for 3 years and also she was suffering from bronchial asthma for 20/25 years for which she was using inhaler. The claim was repudiated due to this concealment of medical history.

Decision : I have carefully gone through entire documents available on record including the statements of the parties. There is no dispute as to the fact that the DLA procured policy No. 128507394 with the date of commencement on 30.06.2009 for a Sum Assured of Rs.2,50,000/-. The policy holder died on 15.08.2009 within a span of one month fifteen days. It appears that the Insurer has repudiated the claim for suppression of material facts regarding medical history of the DLA. To prove this facts that the DLA had pre-existing diseases before taking the policy, the Insurer has submitted a lot of treatment documents including discharge summary from International Hospital, Guwahati and Sir Ganga Ram Hospital, New Delhi where the DLA expired. There is mention in the Death Summary of International Hospital that she was a known case of bronchial asthma. In the Ganga ram hospital Death Summary (Casualty Card) they mentioned that she had H/O HTN for 3 years and H/O bronchial asthma for 20/25 years. Though the insurer could not furnish details of treatment of the entire duration of illness, they furnished treatment particulars from Apollo Hospital, Chennai where she was treated even as early as 2002 and was on continuous treatment. It reveals from Annexure – I (proposal form) that the DLA did not mention any of her illness. She answered all the questions in negative.

Considering all the above aspects of the matter in its entirety, I have no hesitation to hold that the decision of the Insurer repudiating the claim is based on justified ground and is not called for any interference from this Authority. In the result, this complaint is dismissed.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/006/025/L/11-12/Ghy

Mr. Akash Daimary

- Vs -

Birla Sun Life Insurance Co. Ltd.

Date of Order : 12.09.2011

Complainant: The Complainant stated that his brother Khargeswar Muchahari procured Policy No. 004511505 with the date of commencement on 18/11/2010 from the Birla Sun Life Insurance Co. Ltd. While the policy was in force, the Policy holder died on 13/12/2010. But death Claim has been repudiated by the Insurer on medical ground.. The complainant however stated that there was no illness of the policy holder prior to taking the policy. Hence, is the complaint.

Insurer : The Insurer has stated in their "Self Contained Note" that they have repudiated the claim of the Complainant mainly on the ground of suppression of material facts by the Life Assured in the proposal form. The Life Assured was not keeping well and was suffering from jaundice prior to taking the policy. The prescription dated 11.10.2010 of Dr. K.C. Rabha of Dr. Nabin Chandra Rabha Memorial Clinic, Tamulpur wherein it was mentioned that the said Life Assured was a c/o hepatitis and the problem of blood in sputum and black stool at that time. The Life Assured was hospitalized in the Dispur Polyclinic and Nursing Home on 13.12.2010 and the time of death was 3.40 P.M.. The cause of death has been given as Complicated Malaria, Hepatitis, Renal infection. Before taking insurance policy the policy holder was under treatment of Dr. T. Ahmed since last one year. Due to suppression of material facts, they have repudiated the claim.

Decision : I have carefully gone through the entire materials on record including the statements of the parties, complaint petition, Self Contained Note and the medical certificates annexed with the Self Contained Note. It reveals from the prescription issued by Dr. K.C. Rabha of Dr. Nabin Chandra Rabha Memorial Clinic, Tamulpur dated 11.10.2010 that the said Life Assured Khargeswar Muchahary was suffering from hepatitis with bleeding sputum since 13 days Blackish Stool. He referred the patient to G.M.C. / Dispur Poly Clinic & Nurshing Home, Guwahati. It also appears from the certificate issued by the Dispur Poly Clinic & Nurshing Home, Guwahati that the policyholder Khargeswar Muchahary was admitted in that Hospital on 13.12.2010 and he died on the same day. Immediate cause of death was shown to be "Complicated Malaria, Hepatitis, Renal infection". The certificate issued by family Doctor Tafiqul Ahmed shows that since last one year he was treating Khargeswar Muchahary for fever / headache. But in the proposal form regarding health, the policy holder did not mention about any illness from which he was suffering which was within his knowledge.

From all these above, it is clear that the policy holder Khargeswar Muchahary suppressed the material facts regarding his ailments which was within his knowledge. Therefore, the Insured violated the principle of contract of insurance.

In the above premises, I am of the view that the Insurer rightly repudiated the claim. With the above observation, the complaint is dismissed.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/001/077/L/10-11/Ghy

Mr. Dinalal Barman

- Vs -

Life Insurance Corporation of India

Date of Order : 12.09.2011

Complainant : The Complainant stated that his brother Himangshu Barman procured a policy bearing No. 491779671 from LICI with the date of commencement on 19.08.2005 for a Sum Assured of Rs. 10,00,000.00. While the policy was in force, the policy holder died on 02.10.2006. Being the nominee under the policy, the Complainant had lodged a claim before the Insurer which was repudiated due to suppression of adverse medical history prior to taking the policy. But the Complainant says that there was no previous illness. Feeling aggrieved, this complaint has been lodged.

Insurer : As per Self Contained Nonte the policy holder was a patient of cirrhosis of liver and was under treatment of one Dr Dipak Kr. Das of lakhipur PHC for about two years. A copy of the certificate issued by the doctor is enclosed with the SCN. It indeed mentions that the policy holder was under his treatment for atleast two years. A friend of the policy holder Sri Dibakar Barman also in a written certificate confirmed the fact. It may be mentioned that the claimant furnished another letter from the same doctor to the insurer wherein the doctor informed that he never treated the policy holder and the earlier certificate was issued by mistake. In the SCN the insurer says that perhaps this second certificate was issued by the doctor under coercion.

It may also be noted that other than the certificate from both the doctor and the friend of the policy holder the insurer could not produce any treatment details.

Decision : I have carefully scrutinized the entire evidences on record, both oral and documentary. The Insurer has claimed that the Life Assured was suffering from Liver diseases before two years from the date of taking the policy. The Insurer has submitted a certificate of Dr. Dipak Kr. Das of Lakhipur PHC and another certificate from childhood friend to that effect. But it is clear that the same Doctor i.e. Dr. Dipak Kr. Das issued another certificate to the Complainant stating that he never treated Himangshu Barman during his life and he also stated in the certificate that he issued the earlier certificate through mistake. The Complainant has submitted a medical certificate from Dr. B.P. Nath, Sub-Divisional Medical & Health Officer, Harinagar PHC wherein he stated that the patient died due to chest pain and he was suffering from last one day before death and that Himangshu Barman died on 02.10.2006. In his said certificate, he mentioned in serial No. 7 that Himangshu Barman was examined by none other Doctors except him. The Insurer has failed to submit any prescription or hospital reports to show that the policy holder was suffering from Cirrhosis of Liver prior to taking the policy.

Having regard to entire facts and circumstances as discussed above, I am of the considered view that the Insurer has failed to prove conclusively that the policy holder Himangshu Barman was suffering from Cirrhosis of Liver prior to obtaining the policy. I have absolutely no hesitation to hold that the decision of repudiation of the policy by the Insurer is not justified. In the result, this complaint is allowed. Insurer is accordingly directed to settle the claim within 15 days allowing penal interest @ 8% P.A. on the settled amount.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/004/115/L/10-11/GHY

Mr. Jibesh Ch. Bhattacherjee & Mrs. Sumola Bhattacharjee

- Vs -

ICICI Prudential Life Insurance Co.Ltd.

Date of Order : 23.09.2011

Complainant = The Complainants have stated that Mr. Angshuman Bhattacharjee, son of the Complainants, procured the above policies from the above Insurer for a Sum Assured of Rs.3.00 Lacs. It is stated that the Insured died on 19.03.2010. The Complainants, being the parent and legal heir of the Insured, submitted the death claims being supported by documents and it is alleged that the Insurer has repudiated the death claims and hence this complaint.

Insurer = The Insurer has stated in their "Self Contained Note" that the policy was issued on October 18, 2007. The Life Assured expired on March 19, 2010 due to Chronic Liver Disease, Decompensation and Cardiac Arrest.

After careful evaluation of the records obtained by them, during the claim processing it is noted that the Life Assured was hospitalized on August 31, 2006 as a follow up case of Ethanol abuse with Alcoholic Cardiomyopathy with left sided Tuberculous Pleural Effussion and was on Anti Tubercular Treatment since August 2006. Subsequently, the Life Assured was discharged on September 11, 2006 and the diagnosis was stated as "Chronic Liver Disease with Decompensation and Type – II Respiration Failure". This medical history which was prior to the proposal was not disclosed in the aforesaid proposal for insurance. Therefore, the Insurer has repudiated the claims.

Decision : It is apparent on the face of the record that the Insurer has repudiated the death claims on the ground of suppression of material facts regarding illness of the D.L.A. in the proposal forms. To substantiate this plea, the Insurer has submitted the medical certificates from the International Hospital, Guwahati and the treatment details. The certificate issued by Dr. Pranjal Deka of International Hospital, Guwahati shows that the DLA Angshuman Bhattacharjee was admitted to International Hospital twice = 1st on 31.08.2006 vide IHIP No. 9420 11.09.2006 and discharged on 11.09.2006. On discharge diagnosis was Chronic Liver Disease with Decompensation Cardiomyopathy and Type 2 Respiratory Failure requiring assisted ventilation. 2nd admission on 28.01.2009 vide IHIP No. 27121 and discharge on 02.02.2009. On discharge diagnosis was Chronic Liver Disease with Decompensation. Cardiomyopathy and Cellulitis B/L lower limbs. Annexure – F series are the treatment particulars from International Hospital also extent full corroboration of the above certificates. The above certificates and the documents regarding treatment details make it abundantly clear that the DLA was suffering from Chronic Liver Diseases as early as on 31.08.2006 for which he was hospitalized in the

International Hospital, Guwahati. The proposal for insurance was received by the Insurer on 25.01.2007, 30.03.2007 and 15.10.2007 for the life insurance policy Nos. 04975639, 06439788 & 04365205 respectively. But it is crystal clear from the proposal forms that the DLA answered all the health questions (Q.No.3) in the negative. The DLA had pre-existing chronic liver diseases before signing the proposal form. But the Insured suppressed this material facts while filling up the proposal forms. Thereby the DLA violated the principle of contract of insurance. With the above observation, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/001/105/L/10-11/Ghy

Mr. Padum Rajkhowa

- Vs -

Life Insurance Corporation of India

Date of Order : 30th August, 2011

Complainant : The Complainant stated that Mr. Madhab Ch. Rajkhowa procured an "Endowment Assurance Policy with profits + accident benefit" from the above Insurer with the date of commencement on 28.03.2002 for a Sum Assured of Rs.50,000/-. On 17.09.2007, the Life Assured died. The Complainant, being the nominee under the above policy, lodged her claim which was repudiated by the Insurer. Yet he requested to consider the case on humanitarian ground as the L/A had left behind his widow and a minor daughter. He requested to at least consider paying back the premium if death claim could not be considered. The Complainant, being aggrieved, approached this Authority thereafter.

Insurer : The Insurer has stated in their "Self Contained Note" that the claim was repudiated mainly on the following ground :-

The Life Assured did not mention his illness in the personal statement at the time of revival of policy on 03.08.2007 whereas he was suffering from Cancer since 30.10.2006 as out door patient and from 14.09.2007 he was admitted in the B. Barooah Cancer

Institute, Guwahati as an indoor patient. He deliberately suppressed his diseases and vitiated the contract of Insurance.

Decision : The Complainant has admitted that he did not have any knowledge whether the Insured declared about his illness at the time of revival of the policy. He has prayed for giving the claim on humanitarian ground even if not payable on legal ground. The copy of the proposal form shows that the Insured in his personal statement regarding health on the date of revival of the policy i.e. on 03.08.2007, nowhere he mentioned that he was suffering from Cancer. Annexure – II and Annexure – III make it clear that the Insured was undertaking medical treatment since 30.10.2006 and from 14.09.2007 he was admitted at B.Borooah Cancer Institute as indoor patient. It is the fundamental principle of insurance law that utmost good faith must be observed by the contracting parties and the good faith forbids either party from non-disclosure of the facts which the parties know. As the Insured did not mention about his serious illness (Cancer) at the time of revival of the policy, the Insurer rightly repudiated the claim. With the above observation, the complaint is treated as closed.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/002/141/L/10-11/Ghy

Mrs. Bina Pani Medhi

- Vs -

SBI Life Insurance Co. Ltd.

Date of Order : 20.09.2011

Complainant : Husband of the Complainant Padma Patgiri procured Policy No 06033587709 from SBI Life Insurance Co. Ltd. with the date of commencement on 12/11/09 for a Sum Assured of Rs. 1,50.000.00. The policy holder died on 15/05/2010, i.e. about six months after taking the policy. Death Claim was submitted which was repudiated due to concealment of previous illness history. The complainant refuses the allegation. And hence she submitted the complaint.

Insurer : The Insurer has states in their "Self Contained Note" that the policy holder did not disclose his actual medical condition in the proposal form indicating that he was quite healthy on the date of proposal i.e. on 13/10/2009. However, the investigation after death by the insurer revealed that he was suffering from Chronic liver disease and was under treatment of Arogya Doctor's Chamber, Pathshala. Their prescription dated 12/07/2009 also indicates that the L/A was alcohol abuser and the doctors advised him to stop drinking alcohol. Subsequently on 25/07/2009 he came to Guwahati medical College & Hospital on whose advice ultra sonography was for the whole abdomen which confirmed the previous diagnosis. He was again treated by Dr. N. Khound MD of International Hospital of Guwahati on 15/09/2009 who also observed that L/A was suffering from jaundice for last 2 months and also he did not quit drinking. Insurer furnished copies of all those medical documents.

Decision : I have carefully gone through the entire documents on record including the statements of the parties. It is apparent that the DLA Padma Patgiri obtained treatment in Arogya Doctor's Chamber on 12.07.2009 Chronic Liver Disease was noted and the DLA was advised to stop alcohol drinking. The pathology report dated 12.07.2009 shows that there was increase in SGOT and GGTP which indicates that the DLA was having malfunctioning of liver and was not in sound health. The USG Abdomen Report from Pulse Diagnostic dated 25.07.2009 shows that the DLA was suffering from Chronic Liver Parenchymal Disease and prominent spleen. It also appears from the medical certificate issued by Dr. Nilam Khound, International Hospital, Guwahati on 15.09.2009 that the DLA was suffering from Jaundice since two months for which he was hospitalized. The proposal form shows that the policy holder answered all the questions regarding health and illness in the negative. In question No. 8 of the proposal form itself, he answered in the negative regarding liver diseases. There is also a question whether during the last 10 years, he had undergone or advised to undergo hospitalization, an operation or any investigation or tests or medical treatment, in which he answered in the negative.

All these above make it ample clear that the DLA suppressed the material information regarding his illness in the proposal form dated 13.10.2009. With the above observation, the complaint is treated as closed.

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GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/006/097/L/10-11/Ghy

Mrs. Parul Talukdar

- Vs -

Birla Sun Life Insurance Co. Ltd.

Date of Order : 14.09.2011

Complainant : The complainant stated that her husband Jatindra Nath Talukdar procured a Policy no. 002891556 with the date of commencement on 10/06/2009, for a Sum Assured of Rs. 68145. The policy holder expired on 03/12/2009, six months after commencement. But death claim was repudiated on the ground of concealment of history of diabetes prior to taking the policy. But the complainant refuses to accept repudiation decision and wants payment to be made.

Insurer : The Insurer has contended in their "Self Contained Note" that The DLA was suffering from HTN and Type 2 DM prior to taking the policy and hence it was repudiated for concealment of previous illness history.

Decision : It is an admitted position that the husband of the Complainant procured a policy No. 002891556 from the Birla Sun Life Insurance Co. Ltd. The Life Assured died on 03.12.2009 while the policy was in force. It appears that the Insurer has repudiated the claim mainly on the ground that the DLA was suffering from Type 2 Diabetes Mellitus and that he was known a case of Acute Coronary Syndrome, Essential Hypertension. He had a smoking habit too. But he did not mention all these facts in the proposal form. To prove this fact, the Insurer has relied upon a certificate issued by Dr. Bhubaneswar Dutta dated 03.12.2009. I have carefully gone through the certificate from Dr. N.M.B. Baruah Nursing Home, Nalbari. Of course, name of the Doctor could not be ascertained properly as he put is initial only. The certificate is in the form of prescription and not in the form of certificate. In the prescription, it is mentioned that in case of the DLA there was history of Type 2 Diabetes Mellitus for last 1 ½ years and there was sudden chest pain. The prescription is on the date of death only. Except this

prescription, the Insurer has failed to submit any other documents regarding treatment details from any Doctor for last 1 ½ years before the death of the Life Assured. If the DLA was suffering from T2DM for last 1 ½ years, the burden is evidently upon the Insurer to prove by adducing documentary evidences regarding treatment details that the Insured was suffering from such type of diseases prior to taking up the policy. But the Insurer has failed to discharge the burden cast upon them. Mere mention in a prescription without proving any document of treatment details of the Insured is not at all sufficient for taking a drastic action like repudiation of the claim.

Considering all the aspects of the matter as discussed above, I have absolutely no hesitation to hold that the decision of the Insurer repudiating the claim is not based on justified ground. That being the position, the complaint is allowed. Insurer is accordingly directed to settle the claim within 15 days allowing penal interest @ 8% P.A. on the settled amount.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/001/123/L/10-11/Ghy

Syed Bokhte Faruk

- Vs -

Life Insurance Corporation of India

Date of Order : 07.09.2011

Complainant . The Complainant stated that he procured a LICI Policy bearing No. 59892304 from Jorhat B.O.- I of the Insurer for Sum Assured of Rs. 15,000/- with the date of commencement on 28.06.1983. The said policy attained maturity on 28.06.2008. The Insurer has settled the claim with less maturity amount, not the full maturity claim. Feeling aggrieved, the Complainant has approached this Authority with the above complaint.

Insurer : Self contained note has been received. The Insurer has submitted a status report also with FUP as 01/07. On the basis of this the insurer says that it was a lapsed policy under salary savings mode and hence full claim was not payable. However they offered to reconsider the case if proof of payment of up-to-date premium is furnished to them.

Decision : It is an admitted position that the Complainant procured a LICI policy bearing No. 59892304 from Jorhat B.O.-I of the Insurer under Salary Savings Scheme. The Complainant has received an amount of Rs. 20,940.00 (Paid up value Rs. 1875.00 + Vested bonus Rs. 19065.00) on maturity. It is apparent that the Insurer did not take into consideration the premiums deposited at Diphu Branch of LICI while calculating the maturity value for which maturity value was paid less to the Complainant. The complainant stated that his premiums were remitted to two branches i.e. Jorhat BO-1 and Diphu. Branch of LIC. The Insurer has not confirmed if they tried to ascertain from Diphu Branch whether any premium was paid there. From the copy of the Certificate issued by Senior Manager, Diphu Electrical Division, CAEDCL, Diphu, submitted by the Complainant, it appears that the monthly premiums @ Rs. 65.80 in respect of the above policy on the life of the Complainant were being paid to the Diphu Branch with effect from November, 2003 to May, 2008. The Complainant has further alleged that the Insurer has settled his claim after a long period from the date of submission of his claim.

Insurer is accordingly directed to settle the claim within 15 days allowing penal interest @ 8% P.A. on the settled amount.

GUWAHATI OMBUDSMAN CENTRE

Complaint No. 21/006/112/L/10-11/Ghy

Smt. Kiran Das

- Vs -

Birla Sun Life Insurance Co. Ltd

Date of Order : 15.09.2011

Complainant: The Complainant stated that her husband Mr. Bimal Chandra Das procured a policy bearing No. 001819196 from Birla Sun Life Insurance Company with the date of commencement on 21.07.2008 for a Sum Assured of Rs. 4,95,000.00. While the policy was in force, the Insured died on 03.03.2010. Being the legal heir and nominee under the policy, she has lodged a claim before the Insurer. But the Insurer has repudiated the claim on the ground of concealment of history of diabetes, hypertension, chest pain and heart disease by the policy holder prior to taking the policy. Complainant informs that the DLA did not have heart disease before, which was diagnosed after the policy commenced. Besides, the cause of death was not those diseases and he died due to severe gastric problem and resultant hemorrhage. Hence the claim is payable in full. IT MAY BE MENTIONED THAT THE INSURER PAID CASH SURRENDER VALUE OF THE POLICY AMOUNTING TO Rs. 1,01,897.11.

Insurer : According to the Insurer, the DLA was suffering from Coronary Artery Block Disease since 1970 which was not disclosed. Besides he also suffered from Type 2 DM from last 12 years and Essential Hypertension from last 4 years. Hence, they repudiated the claim for concealment of adverse medical information.

Decision :. I have carefully gone through the entire materials on record and the statements of the parties. The Insurer referred to the attending doctor's certificate who mentioned that he was acquainted with the DLA since 1970. But no where he mentioned that DLA was suffering from the terminal condition since then. Actually he mentioned against Q. No. 3 that he treated the patient in the past in Nov/09. In Q. No. 5 he mentioned that he first attended the patient for the present illness since 14/11/09.

It is a fact that in prescription from GNRC Hospitals dated 16/11/09, the hospital reported that the DLA had history of Type 2 D.M from last 12 years and Essential HTN for last 4 years. But the Insurer has failed to furnish any treatment document for the same prior to taking the policy on 30.06.2008. The Hospital Authority also did not furnish any record of having treated policyholder on any earlier occasion for those conditions prior to the date of policy. Mere mention of some diseases in a prescription much after taking the policy without any supporting document is no proof of any pre existing diseased. For taking a drastic action for repudiation of the claim, the burden is evidently heavy upon the Insurer to prove that the DLA was suffering from pre-existing diseases before taking the policy. The Insurer has failed to discharge their burden cast upon them. They have failed to furnish any treatment documents of the DLA prior to taking up the policy.

Considering all the aspects of the matter, I have no hesitation to hold that the decision of repudiation of the claim by the Insurer is not justified. In the result, this complaint is allowed. Insurer is accordingly directed to settle the claim within 15 days allowing penal interest @ 8% P.A. on the settled amount.

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KOLKATA

OFFICE OF THE INSURANCE OMBUDSMAN,

4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	:	1242/21/001/L/02/2011-12
Nature of Complaint	:	Repudiation of death claim
Category under RPG Rules 1998.	:	12 (1) (b)
Policy Nos.	:	426975307 & 426182031
Name & Address of the Complainant	:	Smt. Durga Rani Singha, W/o Late Biswanath Singha, Karmakarpara, P.O. & P.S. Basirhat, District: North 24-Parganas, Pin: 743 411.
Name & Address of the Insurer	:	Life Insurance Corporation of India, K.S.D.O., Jeevan Prabha,

DD – V, Sector – I, Salt Lake City,

Kolkata – 700 064.

Date of Order : 12th April, 2012

AWARD

Facts and Submissions

1. **Complainant**

The complainant is the wife of the Deceased Life Assured (DLA) Late Biswanath Singha and nominee of the policy no. 426975307. The Life Assured (LA) had taken 2 policies bearing no.426975307 (on his own life) and no.426182031 (on the life of his son Tukai Singha) on 12th February, 2008 and 22nd February, 2007 respectively from the above insurer. The LA expired on 26th October, 2008 due to cardio respiratory failure in a case of chronic bronchial asthma. The complainant submitted a death claim to the insurer, but her claim was repudiated by the insurer on the ground of suppression of material facts. The complainant stated that her husband was hospitalized due to some ailments, not related to bronchial asthama only once prior to taking his policy and the said fact was known to the agent. But gradually her husband had recovered from the ailment. The complainant also added that at the time of taking the policies, the agent took her husband to a doctor for medical examination and the proposal was accepted by the Divisional Office on the basis of the medical reports. So, she denied that there was suppression of material fact and appealed to the Zonal Claims Review Committee (ZCRC) for payment of the death claim, but the ZCRC declined her request. Being aggrieved, she approached this Forum seeking justice and submitted "P" Forms giving her unconditional and irrevocable consent for the Hon'ble Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer has submitted their Self-Contained Note (SCN) dated 31st March, 2012 stating therein that the above 2 policies were purchased by the DLA on 12th February, 2008 and 22nd February, 2007 respectively. The DLA expired on 26th October, 2008 due to cardio respiratory failure in a case of chronic bronchial asthma. During the claim review process, it was found that the deceased policyholder suffered from bronchitis which turned to asthma in 1999 and was treated in Basirhat S.D. Hospital in 2006. The deceased did not disclose these facts in the proposal form which would have changed the underwriting decision. So, the claim was repudiated on the ground of suppression of pre-existing medical condition. The ZCRC upheld the decision of repudiation which was conveyed to the complainant on 13th January, 2012.

3. **Hearing**:

Both the parties were called for a personal hearing on 10.04.2012. The complainant attended along with her brother Shri Bachhu Karmakar and submitted the grounds of complaint. She stated that her husband was a gold labour and used to blow air through pipe to finish jewelries. Due to his professional hazard, he once suffered coughing and respiratory problem for which he was admitted in Basirhat SD hospital but he had recovered fully after the treatment and till his death he did not have any such problem. She further mentioned that this fact was known to the agent who had disclosed it to the doctor at the time of medical examination and he was found fit by the doctor. She pleaded for compassionate consideration of her case.

The representative of the insurance company reiterated their stand as mentioned in the SCN and discussed above. He referred to the discharge summary of the Sadar Hospital, Bashirhat which shows that the LA was admitted in the hospital in 2006 from 19.10.2006 to 20.10.2006 as he was suffering from COPD with car pulmonela (respiratory problem) for which ECG and X-ray were done.. The chest X-Ray suggested “minimal infective changes” indicating COPD. As these facts were not disclosed in the proposal form it had adversely affected the underwriting decision.

4. **Decision**

We have heard both the parties, considered their written submissions and examined the documents submitted to this forum. The complainant has approached this forum against the decision of repudiation by the insurance company on the ground of suppression of material facts relating to his history of bronchial asthma. It is seen that the policy no.426975307 was taken under Table-133 for S.A. of Rs.55,000/- which was a high risk plan with triple cover death benefit. The duration of the policy was only 8 months and 14 days. Second policy no.426182031 was taken under Jeevan Kishore plan for S.A. of Rs.55,000/- and the LA had opted for premium waiver benefit under this policy. The duration of the policy was one year 8 months and 4 days as on the date of death. The claim was repudiated on the ground of suppression of material facts relating to past history of bronchial asthma prior to the inception of the policy. The insurer has submitted the discharge certificate of Basirhat S.D. Hospital dated 26.10.2006, which shows that the patient was hospitalised from 19.10.2006 to 26.10.2006 as he was suffering from COPD with respiratory trouble (carpulmonela) and had undergone ECG with X-Ray of chest. This fact of hospitalization is not disputed by the complainant, but she stated that it was a casual event and her husband had completely recovered. The cause of death was cardiac respiratory failure in a case of acute attack of chronic bronchial asthma. The insurer has stated that the LA did not disclose the material information regarding his hospitalization in 2006, which was known to him in reply to specific question no.9 (i) and 9 (ii) of the proposal form asking whether the LA had during the last five years consulted a medical practitioner for treatment for more than a week or he had ever been admitted to any hospital for treatment. By giving negative replies to these questions, the LA had, no doubt suppressed material facts and violated the Doctrine of Utmost Good faith, which according to the Insurer, is a sufficient reason to void the contract as per settled law. However, we find that except the discharge certificate of the Basirhat hospital, the insurer has not produced any other document to show that LA was suffering from chronic bronchitis and was undergoing regular treatment for bronchial asthma prior to taking the policy. Moreover, the X-ray and ECG done during hospitalization showed normal report and no abnormality of the respiratory function. It is further seen that the DLA had clearly disclosed his profession of a jewellery labour in the proposal form, which necessitated medical examination before acceptance of the proposal. From the Medical Examiner's confidential report it is seen that after examining the life proposed, the panel doctor had mentioned in September, 2008 that

there was no symptom or sign suggestive of abnormality of cardio vascular/respiratory system. Moreover, we find that the treating doctor had certified in form no.5152 dated 16.02.2009 that the nature of disease was dyspnoea, wheezing and cough which had been persisting for one month only. Moreover, the symptoms of the illness were also first observed by the deceased just one month back before his death (Q nos. 2 and 3 of the certificate). This has not been countered by the insurance company with any strong evidence.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the pre-existence of the disease i.e bronchial asthma cannot be conclusively established on the basis of a single document i.e the discharge certificate of Basirhat SD hospital. The event appears to be a casual one considering the professional hazard faced by the DLA. We also cannot overlook the medical examiner's confidential report declaring normal respiratory functions at the time of taking the policy. No other document evidencing regular treatment for the disease was produced. Under the circumstances, decision of the insurer to repudiate the claim on the ground of suppression of material fact is not fair and justified. The medical examiner's report had cleared the proposal without raising any doubts. Accordingly, we set aside the erroneous decision of the insurance company and direct them to admit the claim and settle it as per the policy terms with a period of 15 days of receiving this order. The premium waiver benefit in respect of policy no. 426182031 may be allowed.

In result, the complaint is allowed.

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OFFICE OF THE INSURANCE OMBUDSMAN,

4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	:	1146/21/001/L/01/2011-12
Nature of Complaint	:	Repudiation of death claim
Category under RPG	:	12 (1) (b) Rules 1998.
Policy No.	:	497654305
Date of Order	:	12th April, 2012

AWARD

Facts and Submissions

1. **Complainant**

The complainant Smt. Chhaya Biswas is the wife of the Deceased Life Assured (DLA) Late Rabin Biswas and nominee of the above policy. The Life Assured (LA) had taken the policy from the insurer on 5th March, 2009 with sum assured of Rs.55,000/- and premium paying term of 11 years. The LA died on 29th June, 2010 at Amta Rural Hospital and thereafter, she applied to the insurer for death claim of her husband. But the death claim was repudiated by the insurer on the ground of suppression of material fact. Being aggrieved, she appealed to the Zonal Claims Review Committee (ZCRC) for review of the repudiation decision taken by the insurer. But they

also upheld the repudiation decision taken by the insurer. Finding no other alternative, she approached this Forum seeking appropriate relief and submitted "P" Forms giving her unconditional and irrevocable consent for the Hon'ble Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer has submitted their Self-Contained Note (SCN) dated 9th February, 2012 stating therein that the LA expired on 29th June, 2010 due to cardio respiratory failure. They have evidence (claim form 'B') to show that the DLA had been suffering from DMT2 & HTN before proposing the policy no.497654305. Therefore, it is evident that the DLA had fraudulently suppressed his illness at the time of taking the policy. So, the competent authority had gone through the papers and decided to repudiate the claim, which was conveyed to the claimant vide letter ref no.HDO/Repdt.Clm/BBO/10-11/43 dated 24th May, 2011. On claimant's representation, ZCRC reviewed the said claim and decided to uphold repudiation decision taken by the insurer, which was conveyed to the claimant, vide letter ref. no.HDO/Repd.Clm/BBO/10-11/43/ZCRC, dated 18th November, 2011.

3. **Hearing**:

Both the parties were called for a personal hearing on 10.04.2012. The complainant attended along with her daughter and submitted the facts and grounds of her complaint. She stated that her husband was in sound health and had never visited a doctor for diabetes and hypertension related problems. He died all of a sudden due to heart attack without any history of any ailments. She pleaded for sympathetic consideration of her case.

The representative of the insurance company reiterated their stand as mentioned in the SCN and discussed above. He stated that the company has no other evidence to prove the existence of DM Type-II and HTN since prior to the inception of the policy except the claim form 'B' which shows three years history of this disease.

4. **Decision**

We have heard both the parties and examined the documents submitted in this forum. It is seen that the insurance company has repudiated the claim on the grounds of suppression of material facts on the basis of the claim forum 'B' where the doctor has mentioned that the cause of death was acute myocardial infarction in a case DM Type-II CRF & HTN. The complainant has vehemently contended that her diseased husband had deliberately suppressed any material facts or misrepresented about his health conditions as he had never visited any doctor. He was in robust health and worked till his last day. He expired all of a sudden without any treatment. Except claim form B, no other documentary evidence in the form of any prescription or investigation report showing the history of diabetes or hypertension was produced by the insurer before this forum. Moreover, it is seen that while answering question no.5 (j) & (k), the doctor mentioned that there was no clinical basis for estimating the duration of the ailments. In the absence of any other material to establish the pre-existence of diabetes and hypertension and its knowledge to the DLA, we do not consider the information given in the claim form 'B-1' as an adequate reason for repudiation of the death claim.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the ground of suppression of material facts has not been established with convincing and strong documentary evidence. Giving the benefit of doubt to the complainant, we allow the claim and set aside the repudiation decision of the insurer. They are directed to settle the claim within 15 days of receiving of this order along with the consent letter of the complainant.

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OFFICE OF THE INSURANCE OMBUDSMAN,

4, C.R. AVENUE, KOLKATA – 700 072

RECOMMENDATION IN THE MATTER OF

Complaint No.	:	1172/24/001/L/01/2011-12
Nature of Complaint	:	Delay in settlement of death claim
Category under RPG	:	12 (1) (e) Rules 1998.
Policy No.	:	415364185
Name & Address of the Complainant	:	Shri Chitta Ranjan Manna, 15, Chandi Bose Lane, Kolkata – 700 085.
Name & Address of the Insurer	:	Life Insurance Corporation of India, K.M.D.O.-I, Jeevan Prakash, 16, Chittaranjan Avenue, Kolkata – 700 072.
Date of Order	:	7th May, 2012

RECOMMENDATION

Facts and Submissions

1. **Complainant**

The complainant stated in his complain dated 13.01.2012 that he had taken an LIC Annuity Policy on the life of his wife Late Susmita Manna who expired on 11th January, 2002 i.e. within 1 month of paying the first premium of the policy. Due to adverse circumstances, the complainant forgot about the said policy. He remembered about the same only after receiving a letter from the insurer asking for the option for payment of the pension on 6th September, 2011. The complainant submitted the claim papers and necessary documents on 16th September, 2011

but did not receive any communication in this regards. Even after several follow-ups for more than 2 years, the death claim has not yet been settled by the insurer. So, he approached this Forum seeking justice and submitted "P" Forms giving his unconditional and irrevocable consent for the Hon'ble Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer has submitted their Self-Contained Note (SCN) dated 26th April, 2012 stating that policy no.415364185 with single premium of Rs.17,562/- was issued to LA on the basis of the proposal form submitted on 15th December, 2001. However, the premium was adjusted after 15th January, 2002. The proposer expired on 11th January, 2002 i.e. before the date of adjustment of the deposit. The death intimation was served by the claimant on 5th September, 2011 i.e. after more than 9 years from the date of death of the proposer. Since the proposer had expired before the acceptance and commencement of the risk coverage, no claim is admissible under the policy.

3. **Hearing**:

Both the parties were called for a personal hearing on 03.05.2012. The complainant did not attend the hearing and requested for adjournment of hearing on medical grounds. Since his request was received at the last moment, we are unable to adjourn the hearing.

The representative of the insurance company attended and reiterated their stand as mentioned in the SCN and discussed above.

4. **Decision**

We have heard the representative of the insurance company, considered the written submissions of the complainant and examined the documents submitted to this forum by both the parties. We find that it is a case of unconcluded contract where the life proposed died before the adjustment of the first premium and commencement of the risk. The complainant lodged a claim only after receiving a letter from the insurer asking for the option for payment of the pension. He also intimated that his wife had died on 11.01.2002. On receiving this intimation, the insurer

could know that the proposal remain unconcluded as the premium was adjusted on 15.01.2002, whereas the life proposed had expired prior to the adjustment on 11.01.2002. Therefore, they have no liability to pay the death claim under unconcluded contract. The complainant has not given any satisfactory explanation for not giving a timely intimation to the insurance company regarding the death of his wife. Under the circumstances, we do not find any lapse on the part of the insurance company in issuing a letter asking for the option for payment of annuity as it was not in their knowledge that the life proposed had died prior to the date of adjustment. The position became clear only on receiving intimation from the claimant after more than nine years.

To conclude, we are of the opinion that the complainant has no valid ground to claim the death benefit as the proposal was never concluded. However, it is not clear, whether the premium paid by the life proposed has been refunded or not. The decision of the insurer not to admit the claim is in order and the same is upheld. They are directed to refund the premium paid by the life proposed within 15 days of receiving this order.

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OFFICE OF THE INSURANCE OMBUDSMAN,

4, C.R. AVENUE, KOLKATA – 700 072

RECOMMENDATION IN THE MATTER OF

Complaint No.	:	1130/24/001/L/01/2011-12
Nature of Complaint	:	Non-payment of death claim
Category under RPG Rules, 1998	:	12 (1) (e)

Policy No.	:	9157816
Name & Address of complainant	:	Dr. Tapan Sinha, P-398/1, Keyatala Lane, Kolkata – 700 029.
Name & Address of Insurer.	:	Life Insurance Corporation of India, K.M.D.O.-I. Jeevan Prakash, 16, Chittaranjan Avenue, Kolkata – 700 072.
Date of Order	:	30th April, 2012

RECOMMENDATION

Facts and Submissions

1. **Complainant**

The complainant is the son of the Deceased Life Assured (DLA) Late Bandana Sinha and nominee (as he claims in his letter dated 3rd January, 2012 but not supported as per the schedule of the policy bond) of the above policy. He stated that his mother expired on 22nd May, 2011. He submitted to the insurer the death intimation of his mother vide his letter dated 16th August, 2011.

He further mentioned that except the policy bond, no other document in respect of the policy is available with him. His mother took the insurance policy when he was a child of 2 years (a child of 4 years as per 'P' Form). Since the insurer is making delay in settlement of the claim, he approached this Forum seeking justice and submitted 'P' Forms giving his unconditional and irrevocable consent for the Hon'ble Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer has mentioned in their written submission dated 2nd April, 2012 that they could not locate the records relating to the policy which was taken 54 years ago. However, diligent search of the records under the policy is going on at their end. The complainant has also been advised by them to submit the last premium receipt from which they will be able to ascertain the premium position under the policy. In view of the above, they have requested the Hon'ble Ombudsman to allow them 3 weeks' time to arrive at a conclusive decision.

3. **Hearing**:

Both the parties were called for a personal hearing on 10.04.2012. The complainant Dr. T. Sinha attended and submitted before this forum that he came across the policy only after the death of his mother last year and he has no other documents except the policy bond to show the status of the policy. He further informed that his mother had some other policies taken from LIC which have already been settled. He was asked to submit the details of other policies but he failed to produce any document in this respect.

The representative of the insurance company on the other hand pointed that without last premium receipt they are not in a position to settle the claim. They have further informed vide their letter dated 23.04.2012 that they could not locate the records relating to the policy which was taken 54 years ago.

4. **Decision**

We have heard both the parties and examined the documents submitted by this forum. The complainant has approached this forum for the death claim of his mother but he expressed his inability to produce the last premium receipt or even earlier receipts which is necessary for settlement of the claim. The insurance company on the other hand, has no records under the policy which was taken 54 years ago. The complainant has no other documents like bank statement to show that his mother had paid the premiums regularly. However, the insurer has to take a decision on the basis of the available records as the claim cannot remain unsettled indefinitely. The complainant may revert to this forum if he is not satisfied with the decision of the insurance company. The complaint is accordingly disposed off.

AWARD IN THE MATTER OF

Smt. Mira Pal

AND

Life Insurance Corporation of India

Date of Award - 24th June, 2011

Complaint No.	:	1372/21/001/L/03/2010-11.
Nature of Complaint	:	Repudiation of death claim
Category under RPG	:	12 (1) (b) Rules, 1998.
Date of Hearing	:	22nd June, 2011.

Facts and Submissions:-

1. Complainant

The complainant is the wife of Deceased Life Assured (DLA) Late Vivekananda Pal and nominee of the above policies. She stated that her husband had taken two policies from Bishnupur Branch of the insurer bearing No. 466857314 (DOC – 28.01.2007; SA – Rs.75, 000/=; TT – 14./07; Mode – Quarterly; FUP – 04/2009 and Premium Rs.3,016/=) and No. 466502651 (DOC – 21.02.2006; SA – 1,00,000/=; Mode – Half-Yearly; FUP – 08/2009 and Premium Rs.6,023/=). Life Assured (LA) expired on 18th February, 2009 and subsequently, his wife (complainant and nominee) submitted the claim forms to the insurer. But the insurer repudiated the death claim on the ground of suppression of material facts. She then appealed to the ZCRC but the latter also upheld the repudiation action taken by the insurer. So, she approached this Forum seeking justice and submitted "P" Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer submitted their SCN dated 26th May, 2011 confirming the fact that the DLA expired on 18th February, 2009 and the death claim for the above two policies was repudiated because LA had been suffering from diabetes mellitus and had consulted medical men for his treatment prior to taking the policy. As he did not disclose the said facts in the proposal form, the claim was withheld for deliberate misstatements. The repudiation decision was upheld by ZCRC also vide their letter dated 11th February, 2011.

3. **Hearing** :

Both the parties were called for a hearing on 22/06/2011. The complainant attended along with her son and stated that they are not satisfied with the response received from the LIC of India. Her deceased husband had no fraudulent intention and therefore, he did not purchase any policy by suppressing any facts about his health. He had taken 7 policies out of which death claim, under 5 policies have been received by them. She further mentioned about her financial problems stating that she has two grown up unemployed sons and a daughter of marriageable age.

The representative of the insurance company reiterated their contentions as mentioned in the SCN dtd.26/05/2011. He pointed that the LA had been suffering from diabetes mellitus and had taken regular treatment before the commencement of the policy. In support of his statement, he filed copies of the doctor's prescription of SD Hospital, Bishnupur, Bankura dtd. 06/02/2009 and prescription of Dr. R.N. Mishra dtd.20/01/2008 & 17/02/2008. In these prescriptions, the doctor had mentioned that it was a follow up case of diabetic mellitus for the last 10 years. Moreover, in CMC Vellore, the patient was also diagnosed as suffering from Hypertension, CKD (chronic kidney dysfunction) stage-4, anemia and dilated cardiomyopathy. All these diseases are clearly resulting from long history of diabetes mellitus which ultimately was the main cause of the death.

4. **Decision** :

We have heard the submissions of both the parties and examined the documents filed before this forum. There is no dispute about the facts that the DLA had a long history of diabetes

mellitus which led to chronic kidney disease, dilated cardiomyopathy and hypertension. According to Dr. R.N. Mishra's prescription dated 17.02.2008, it is a follow up case of DM under control for last 10 years. Although the LA was fully aware of his long history of diabetes for which he was taking regular treatment, he did not mention these facts in the proposal form while taking the policy. This amounted to suppression of material facts and violation of the doctrine of utmost good faith.

It is now well settled by the Hon'ble Supreme Court in the case of P.C. Chacko and Another vs. Chairman LICI and S. K. Sandhu vs. New India Assurance Company that insurance is a contract based on the principle of utmost good faith on the part of the LA. Therefore, whenever information on specific aspect is asked for in the proposal form, the assured is under solemn obligation to make true and full disclosure of the information on the subject which is within his knowledge. In this case, the LA was fully aware of the facts relating to his treatment of diabetes, HTN and other complications resulting from high blood sugar. If he had replied to the questions in the proposal form truthfully and correctly, special medical reports and tests were required and insurer would not have issued the policy on the existing terms. The deliberate misstatement made by the LA has violated the principle of utmost good faith and led to wrong underwriting decisions as a result of which the contract of insurance has become null and void.

In view of the above and after evaluation of all the facts and circumstances of the case, we are of the opinion that the insurer's decision in repudiating the claim is correct and the same is upheld. However, considering the fact that the duration of the policy no.466502651 was two years 11 months and 25 days i.e. just short of 5 days for the period necessary for acquiring paid up value and considering the financial liabilities of the complainant, we allow an ex-gratia payment of Rs.10,000/- to the complainant. The insurer is directed to make the payment of Rs. 10,000/- within 15 days from the receipt of the order along with the consent letter. The complaint is partially allowed.

AWARD IN THE MATTER OF

Smt. Gita Devi

AND

Reliance Life Insurance Co. Ltd

Date of Award - 27th June, 2011

Complaint No.	:	1274/21/010/L/03/2010-11.
Nature of Complaint	:	Less payment of death claim.
Category under RPG	:	12 (1) (b)Rules, 1998.
Date of hearing	:	24th June, 2011.

Facts and Submissions:-

1. **Complainant**:-

The complainant is the daughter of the Deceased Life Assured (DLA) Late Shreenath Singh and nominee of the above policies. She stated that her father purchased the above two policies on 31st July, 2009 from the insurer under "Reliance Super Invest Assured" Plan with yearly mode of payment of premium for a term of 15 years for both the policies. The date of commencement, sum assured and premium under policy No.15061026 was 30th September, 2009, Rs.75,000/= and Rs.15,000/= respectively and that under policy No.15058871 was 23rd October, 2009, Rs.1,25,000/= and Rs.25,000/= respectively. She mentioned that her father expired on 6th October, 2009 after payment of risk premium only. She further mentioned that she had submitted all the relevant papers to the insurer on 28th October, 2009 for settlement of death claim of her father. After a long time, she received a cheque for Rs.2,524.94 (Rupees two thousand five hundred twenty-four and Paise Ninety-four) from the insurer in respect of policy No.15061026 which was much less than the sum assured of Rs.75,000/=. But she did not receive anything from the insurer in respect the policy No.15058871. So she again lodged a complaint to the insurer on 29th January, 2011 but no response was received by her till date. In view of the same, she approached this Forum and submitted "P" Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Hearing** :

Both the parties were called for a hearing on 24/06/2011. The complainant attended along with her husband and explained the grounds of complaint before this forum. Regarding policy no.15061026 dtd .30.09.2009, he stated that there was no suppression of age as the date of birth was correctly mentioned as 01.01.1963 in the proposal form. This matches exactly with the age mentioned in the voter's Identity card. His wife is therefore, rightly eligible for the death claim under this policy. He has filed a copy of the proposal form to prove his point. As regards the 2nd policy no.15058871, dtd.23.10.2009, he submitted that since it was an incomplete contract as the proposer had passed away before the policy documents were accepted, the money deposited under the policy by the proposer should be refunded.

The representative of the insurance company submitted their written submissions during the course of hearing. He stated that the company would verify the date of birth from the original form and if there is any mistake in their decision, the death claim would be admitted. As regards the incomplete insurance policy, he agreed that the deposited amount of Rs.25, 000/- under the policy would be paid to the nominee.

3. **Decision** :

We have heard the submissions of both the parties and examined the documents filed by them before this forum. From the copy of the proposal form of the policy no.15061026 filed by the complainant, it is seen that the date of birth was recorded by the insurer as 01.01.1963 which matches with the age given in the Voter Identity card. The insurance company is, therefore, directed to verify their records and if the age is recorded correctly in the proposal form, then the death claim would become admissible, as in that case, there will be no suppression of age or any misrepresentation by the DLA. As regards the second policy no.15058871, since the contract was not concluded, the insurer is directed to refund the amount deposited by the proposer. The insurer is further directed to make the payment within 15 days of the receipt of the consent letter of the complainant along with the copies of the order.

AWARD IN THE MATTER OF

Mr. Jamini Kanta Akhuli

AND

Birla Sun Life Insurance Co. Ltd

Date of Award – 30.06.2011

Complaint No.	:	1101/21/006/L/01/2010-11
Nature of Complaint	:	Less payment of death claim.
Category under RPG	:	12 (1) (b)Rules, 1998.
Date of Hearing	:	29th June, 2011

Facts and Submissions:-

1. **Complainant**

The complainant is the husband of the Deceased Life Assured (DLA) Late Madhabi Akhuli and nominee of the above unit linked policy. The policy was insured for Sum Assured of Rs.2,50,000/= and D.O.C. as 28th November, 2009 with annual premium of Rs.50,000/= for a premium paying term of 3 years. After paying the risk premium due in November, 2009 under the policy, the life assured expired on 28th July, 2010. The insurer repudiated the claim on the ground of suppression of material fact regarding health of the LA. However, the insurer has issued a Cheque No.003097 dated 29th September, 2010 for Rs.38, 196.07 (Rupees thirty-eight thousand one hundred ninety-six and Paise seven) as the surrender (fund) value of the policy towards full and final settlement of the claim under the policy. The complainant alleged that his wife was not suffering from any disease and the policy was taken for the purpose of investment only. So, question of suppression of material fact should not arise in this case. As a result, he has returned on 1st November, 2010 to the insurer the cheque for Rs.38, 196.07 (Rupees thirty-eight thousand one hundred ninety-six and Paise seven), issued by them. Later, the complainant

approached this Forum and submitted 'P' Forms giving his unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Hearing** :

Both the parties were called for a hearing on 29/06/2011. The complainant attended and submitted before this forum that his claim has been repudiated on false ground of pre-existing disease which is totally baseless. His wife has absolutely no problem and she led a normal and active life. She never had the history of infective hepatitis and bronchitis. Even the treating doctor has observed in the medical attendant's certificate that she was treated by him in the past on two occasions for fever and cough. He also alleged that the certificate obtained from the doctor by the insurer was taken without his knowledge and he was not given a copy of the same.

The representative of the insurance company submitted their self contained not (SCN) during the course of hearing in which it is stated that the claim was repudiated on the ground of suppression of material facts relating to the health of the LA. At the time of filling the proposal form, the LA had given false information in reply to Col.(XII) (D) 2 (a) (c) and (3) (b) (e) of the said application and gave the false declaration about her health. It was revealed during the investigation conducted by the company that LA was suffering from infective hepatitis and bronchitis and was under the treatment of Dr. S.D. Tiwari for last one year. In support of their contention, the insurer has filed a certificate from Dr. S.D. Tiwari dtd.20.09.2010, wherein the doctor stated that he had been treating the LA for the last one year for infective hepatitis, bronchitis, fever and cough. Due to the suppression of material fact, the contract of insurance based on the principle of utmost good faith has become null and void and the claim was rightly repudiated by the company.

3. **Decision** :

We have heard the submissions of both the parties and examined the documents filed before this forum. The ground for repudiation of the death claim is stated to be suppression of material information relating to the past history of illness of the LA. In order to substantiate the ground of repudiation, the insurer has submitted a certificate form Dr. S.D. Tiwari of Chandana Clinic. This certificate was taken from the doctor during the investigation conducted by the

insurer. The certificate is dtd.20.09.2010 in which the doctor has certified that the LA was under his treatment since one year and she was suffering from infective hepatitis fever and cough and bronchitis. However, no prescription of the doctor could be produced by the insurer. Moreover, the doctor's certificate which was taken at the back of the policyholder without his knowledge is in contradiction with the medical attendant's certificate given by the same doctor, where he had stated that LA was treated by him for just cough and fever. There is no mention of hepatitis or bronchitis in this certificate. The death certificate was also issued by Dr. S.D Tiwari, wherein he mentioned that LA suffered from acute myocardial infarction and did not refer to her past history of bronchitis or hepatitis. Thus after evaluation of all the facts and circumstances of the case, we reach the conclusion that suppression of medical fact could not be established by the insurer with irrefutable evidence. The doctor's certificate which was given two months after the death of LA and without the knowledge of the complainant, does not have much evidentiary value and cannot be relied upon. The two documents which the doctor issued at the time of death i.e. death certificate and the medical attendant's certificate do not mention that LA had any history of infective hepatitis and bronchitis. The insurer also could not produce any prescription of the doctor for treatment of these diseases prior to the issuance of the policy. Therefore, we are of the opinion that the repudiation on the ground of suppression of material facts is not correct and the same is set aside. The insurer is directed to settle the claim as per terms of the policy within 15 days of the receipt of the order and the consent letter from the complainant. The complaint is allowed.

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AWARD IN THE MATTER OF

Smt. Meena Sharan

AND

Life Insurance Corporation of India

Date of Award - 29th June, 2011

Complaint No.	:	1135/21/001/L/02/2010-11.
Nature of Complaint	:	Less payment of death claim.
Category under RPG	:	12 (1) (b)Rules, 1998.
Date of hearing	:	27th June, 2011.

Facts and Submissions:-

1. **Complainant**:-

The complainant Smt. Meena Sharan is the wife of the Deceased Life Assured (DLA) and nominee of the above policy. She stated that her husband had taken a GSLI policy, the premium of which was recovered from his salary every month. Her husband died on 10th August, 2006. She then submitted the claim form to the insurer for settlement of death claim. After several communications, the insurer informed her that the policy was in lapsed condition as the premium was not deposited timely e.g. premium was due on 20th July, 2006 but the employer of the DLA, Central Bank of India, deposited the premium on 12th August, 2006 i.e. after 22 days from the due date, when there is no provision for grace period for payment of premium. Since the policy was in lapsed condition at the time of death of LA, the insurer settled the claim as an ex-gratia payment of Rs.26,687/= (Rupees twenty-six thousand six hundred and eighty-seven), vide Cheque No.230575 dated 28th December, 2006. On receiving the cheque, the complainant appealed to the higher authority asking the reasons for non-payment of full amount of death claim under GSLI policy. After that, the insurer further sanctioned Rs.1,00,000/= (Rupees one lakh) as ex-gratia payment, vide Cheque No.339401, dated 11th November, 2010 as full and final settlement of the death claim of DLA. Being dissatisfied with the decision taken by the insurer, she approached this Forum and submitted 'P' forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the Insurer and the complainant for resolution of the complaint.

2. **Insurer :-**

Interventions were made with the insurer but we have not yet received the Self-Contained Note (SCN) from them. But from a copy of the letter dated 11th November, 2010, addressed to the complainant, it is found that the insurer made less payment to the complainant on the ground that the policy was in lapsed condition since the premium was not paid timely. As per their records, premium due on 20th July, 2006 was paid by the employer of the DLA, Central Bank of India, Gaya, on 12th August, 2006 i.e. after 22 days from the due date when there is no provision for grace period for payment of premium under GSLI policy.

3. **Hearing** :

Both the parties were called for a hearing on 27/06/2011. The complainant attended along with her daughter and explained the grounds of complaint. She stated that after lot of persuasion with the insurer, she has received an ex-gratia payment of Rs.1.00 lakh which is not justified considering the fact that the premium amount was duly deducted from the salary of the deceased in time. It was the duty of the insurer to collect the premium from the employer in time and the LA/nominee should not be put to any disadvantage for late deposit of the premium.

The representative of the insurance company on the other hand stated that the policy was in lapsed condition at the time of death of the LA as the premium due on 20.07.2006 was paid by the Central Bank of India, Gaya on12.08.2006 i.e. after 22 days from the due date. He further informed that under GSLI policy there is no grace period for payment of premium. However, considering this case as a special case, a lenient view has been taken and payment of Rs.1.00 lakh has been sanctioned on ex-gratia basis.

4. **Decision** :

We have heard the submission of both the parties and examined the documents filed by them before this forum. It is seen from the salary certificate of the DLA that the premium was duly deducted in time from the salary for the month of July, 2006. It is also seen from the letter of Central Bank of India dated 29.11.2008 addressed to LIC that they had taken up the matter with the insurer for settlement of the death claim in this case. However, the insurer could not produce any evidence to show that the premium was received late by them from the bank. The insurer also did not reply to the bank's letter dtd.29.11.2008 or make any enquiry to find out the reasons for late deposit of insurance premium. In the absence of any evidence to show that the

premium was received late and also considering the fact that the policy has run for more than 15 years, we do not find any justification in the insurer's contention that the policy was in lapsed condition because of late payment of premium. Since the premium amount was duly deducted from the salary in time, the nominee of the DLA has a full right to receive the death claim.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the insurer's decision to pay an ex-gratia amount of Rs.1.00 lakh is not justified and the same is set aside. They are directed to admit the death claim and pay the amount along with late payment interest as per terms of the company within 15 days of the receipt of this order along with the consent letter of the complainant.

The complaint is allowed.

RECOMMENDATION IN THE MATTER OF

Smt. Swapna Batabyal

AND

Life Insurance Corporation of India

Date of Recommendation - 7th July, 2011

Complaint No.	:	208/24/001/L/05/2011-12.
Nature of Complaint	:	Non-payment of death claim of Group Insurance Policy.
Category under RPG	:	12 (1) (e) Rules, 1998.
Date of Hearing	:	4th July, 2011.

Facts and Submissions:-

1. **Complainant**

The complainant is the wife of Deceased Life Assured (DLA) Late Tapas Batabyal. Her husband was an Agent of Life Insurance Corporation since 1972 i.e. for 38 years at CBO-8 of the above insurer. He died on 18th October, 2010 due to cancer. He had a Group Insurance Policy of Rs.5,00,000/= (Rupees five lakh) which was claimed by the complainant after the demise of her husband. But the insurer asked her to produce a Succession Certificate as there was no record of nominee. The complainant requested for waiving the Succession Certificate as it was time consuming and expensive. She submitted (a) 'No Objection Certificate of her son and married daughter for payment of the claim to her. She also submitted other documents like Pan Card, Voter ID Card, Marriage Registration Certificate and Benefit of Staff Regulation of Ananda Bazar Patrika where her husband used to work till 1st June, 2003 and (b) After harassing on the point of nomination for several months, the insurer denied the claim on the ground that the policy was in lapsed condition as the premium was not paid for the last 2 years prior to death of the LA. The insurer could not deduct the premium from the agent commission as there was no sufficient commission during his last 2 years. Complainant has further contended that her husband was never intimated by the employer about the lapsation of the policy. Inspite of several follow-ups with the insurer, she received no positive response. So, she approached this Forum for justice and submitted 'P' Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complainant.

2. **Insurer**

The insurer has submitted their SCN dated 28th June, 2011 confirming the fact that the Agent Tapas Kumar Batabyal (Agency Code No.54722411) expired on 18th October, 2010. The wife of the deceased agent approached the insurer for payment of GTS claim. In course of initial scrutiny, it was observed that there was no nomination in the Agency Record of the deceased agent. In such a case, she was asked for producing the Succession Certificate to establish her title to the claim. While further processing the claim, the insurer found that premiums for the said agent stood unpaid since September, 2008 due to irregular and insufficient commission earned by him. So, no claim is payable and the matter was communicated to the wife of the deceased agent.

3. **Hearing**: Both the parties were called for a personal hearing on 04/07/2011. The complainant attended along with her son and presented the facts and grounds of the complaints. She stated before the forum that she has suffered considerable harassment by the insurer. First she was asked to produce the succession certificate, which could not be complied by her as it was time consuming and expensive. Instead she filed other necessary documents as per their advice like No Objection Certificate from her children, PAN card, Voter ID, Marriage registration certificate, benefit of staffs regulation of Ananda Bazar Patrika where her husband used to work. Subsequently the insurer denied the claim on a new ground that the policy was in lapsed condition as no premium was paid for the last two years before the death of the LA. She further stated that it was the duty of the insurer to deduct the premium and no intimation was given to her husband about lapsation of the policy.

The representative of the insurance company attended and reiterated their stand as mentioned in their written submission dtd.28.06.2011. They submitted that main reason of the repudiation of the claim was that the policy was in lapsed condition due to non-receipt of premium from the LA. He however, could not clarify whether it was mandatory on the part of the insurer to inform the LA about the lapsation of the policy and termination of the risk coverage. He stated that deduction of premium from the commission amount is automatic and system related. They were asked to submit a detailed note on the rules relating to the issues, which was filed on 06/07/2011.

4. **Decision**

We have heard the submissions of both the parties and perused the documents submitted to this forum. We have also gone through the detailed note filed by the insurer subsequent to the hearing vide their letter dtd.06.07.2011. It is seen from the details of the commission earned by the LA for the months of February and March, 2009, that the commission earned was not sufficient for recovery of the GIS premium of Rs.1200/-. The Insurer has explained that as per the normal practice at the time of payment of monthly commission to the agent, they are supplied with commission bills and vouchers with full details of the deductions shown separately and it is the duty of the agent to verify the accuracy of the various deductions. They have also referred to the C.O. Circular no. P&GS/1015 dtd.16.08.2007 according to which the assurance on the life of

a member terminates upon the discontinuance of the contribution relating to the assurance for any reason whatsoever and no amount is payable in such a case.

After considering the submissions of both the parties, we find that the complainant's case has not been properly handled by the lower authorities. She has been given different reasons for repudiation at different point of time. The difficulties and harassment suffered by the widow cannot be overlooked by this forum and we strongly feel that her case should be reconsidered by a higher authority in the light of the standing instructions, rules, normal practices etc. on this issue. We find that the complainant has not approached the ZCRC for review of her claim. Therefore, we are of the opinion that it will be proper that her case is reviewed by the ZCRC before approaching this forum. The complainant is directed to represent to the ZCRC for review of her claim and insurance company is directed to get the claim reviewed by the ZCRC at the earliest.

RECOMMENDATION IN THE MATTER OF

Smt. Malina Yadav

AND

Life Insurance Corporation of India

Date of Recommendation - 7th July, 2011

Complaint No.	:	137/24/001/L/05/2011-12.
Nature of Complaint	:	Non-payment of death claim.
Category under RPG	:	12 (1) (e) Rules, 1998.
Policy Nos.	:	S/425047554 & S/425047556
Date of Hearing	:	4th July, 2011.

Facts and Submissions:-

1. **Complainant**

The complainant is the wife of the Deceased Life Assured (DLA) Late Ram Ayodhya Yadav. She stated that her husband had taken 3 policies bearing Nos. S/425047554; S/425047556 and S/578957975 on 28th October, 2009, 28th October, 2009 and 28th December, 2009 respectively. Her husband died on 16th March, 2010. Accordingly, she applied for the death claim of her husband and received the same against Policy No.S/578957975 only and for the other 2 policies, the insurer had issued cheques in favour of her mother-in-law Smt. Keya Yadav, who expired much before the death of the Life Assured (LA). The complainant pointed out the fact to the insurer but could not produce the death certificate of her mother-in-law. She further stated that her mother-in-law used to stay at Balia, Uttar Pradesh and it is not safe for her to go there alone to collect the death certificate. She had intimated the address of her mother-in-law to the insurer for investigating the matter. She made several follow-ups with the insurer but the death claim was not paid to her. So, she approached this Forum and submitted 'P' Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complainant.

2. **Insurer**

The insurer has submitted their SCN dated 27th June, 2011 confirming the fact that the above 3 policies were taken by Ram Ayodhya Yadav (since deceased) on 28th October, 2009, 28th October, 2009 and 28th December, 2009 respectively. In Policy No.S/578957975, the nominee was Smt. Malina Yadav, wife of DLA. So, the payment of death claim was made to her. But in the other two policies, the nominee was Smt. Keya Yadav, mother of DLA and no change of nomination was effected by the DLA in favour of his wife, Malina Yadav. The LA expired on 16th March, 2010 and the insurer received the death intimation and claim forms from Smt. Keya Yadav on 31st August, 2010. On receipt of the completed papers and Discharge Voucher, the claim was settled by their SSS Department in favour of the recorded nominee Smt. Keya Yadav and Cheques No.939629 and No.939630, both dated 31st March, 2011 for Rs.2,45,920/= each

were issued in her favour. However, on receipt of a complaint from Smt. Malina Yadav, wife of DLA, the insurer arranged for stop payment against the said cheques and requested her to furnish the death certificate of Smt. Keya Yadav in support of her claim that her mother-in-law Smt. Keya Yadav is dead. The complainant expressed her inability to submit such documentary evidence. On this point, the death claim could not be settled in favour of Smt. Malina Yadav.

3. **Hearing**: Both the parties were called for a hearing on 04/07/2011. The complainant attended and presented the facts and grounds of her complaints. She submitted that she is the nominee of this claim as her mother-in-law who was the recorded nominee has expired long time back. She further expressed her inability to procure the death certificate from the place where her mother-in-law died. She stated that she has given the address of that place to the insurer and requested that the insurer be directed to make due enquiries.

The representative of the insurance company on the other hand, stated that they are not able to take any decision in this case as documents required for the settlement of the claim i.e. death certificate has not been produced by the complainant.

4. **Decision**

We have heard the submissions of both the parties and examined the documents produced before this forum. We find that the insurer has not done any enquiries to take a final decision in this case. They have issued the cheques for the death claim in the name of Smt. Keya Yadav i.e. the recorded nominee and the mother-in-law of the complainant. On receiving the intimation of the death of Smt. Keya Yadav from the complainant, they have arranged for stop payment of the cheques and asked the complainant to produce the death certificate of her mother-in-law, Keya Yadav. The complainant has clearly expressed her inability to submit any documentary evidence of the death of her mother-in-law, Keya Yadav on the ground that as it is not safe for her to visit the place where her mother-in-law resided. We have further noted that even after receiving the reply of the complainant expressing her inability to submit the death certificate of her mother-in-law, the insurer has not initiated any step to conduct any proper enquiry in this case. They are simply sitting over the matter without taking any decision to settle the claim. However, the claim cannot remain pending for indefinite period. The insurer has to

take a decision after conducting necessary enquiries. Since complainant has furnished very vital information, its truth and veracity must be verified within a reasonable period. The insurer is therefore, directed to make necessary investigation at Balia, UP and based on their findings; take a decision for settlement or repudiation of the claim. The exercise must be completed within 30 days of the receipt of this order along with the consent letter from the complainant.

OFFICE OF THE INSURANCE OMBUDSMAN,

4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	:	1253/21/017/L/02/2011-12
Nature of Complaint	:	Repudiation of Death Claim
Category under RPG Rules 1998	:	12 (1) (b)
Policy No.	:	00435717
Name & Address of the Complainant	:	Smt. Madhu Devi, 67/16, Khagaul Road, Gardanibagh, Behind Satya Gas Agency Office, Patna – 800 002 (Bihar).
Name & Address of the Insurer	:	Future Generali India Life Insurance Co. Ltd., 001, Delta Plaza, Ground Floor, 414, Veer Savarkar Marg, Prabhadevi, Mumbai – 400 025.
Date of Order	:	6th July, 2012

Facts and Submissions

1. **Complainant**

The complainant has mentioned in his complaint dated Nil received by us on 03.02.2012 that she is the wife of the Deceased Proposer Late Raju Kumar Rajak and nominee of the policy no.00435717. He had proposed for the above policy on the life of his daughter Ms. Sapana Kumari on 29th March, 2010 and had opted for "Life Guardian Rider" which provided additional protection in case the policyholder expires any time prior to the date of vesting of the policy. Later, the proposer was admitted in Chanakya Hospital, Patna, on 21st September, 2010 and thereafter the doctor referred him to a hospital in Lucknow for better management but on way to Lucknow, he expired on 7th October, 2010. The complainant submitted claim papers to the insurer but the claim was repudiated on the ground that the policyholder was suffering from alcoholic liver disease and was under treatment for the same and had also undergone treatment for the same even prior to the date of proposal. The complainant had appealed to the higher authority of the insurer for considering the claim but the repudiation decision was upheld by the higher authority. She also alleged that the agent had demanded Rs.25,000/- for settling the claim but she paid only Rs.6,000/- to the concerned agent. So, she approached this Forum seeking appropriate relief and submitted "P" Forms giving her unconditional and irrevocable consent for the Hon'ble Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer have mentioned in their Self-Contained Note (SCN) dated 15th May, 2012 that the complaint letter was filed on 3rd February, 2012 i.e. after a period of more than 14 months from the date of death of the proposer and as such the complaint is not maintainable in accordance with provisions of Rule 13(3)(b) of the Redressal of Public Grievance Rules, 1998. The policyholder Late Raju Kumar Rajak had proposed for the policy no.00435717 on the life of his daughter Ms. Sapana Kumari on 29th March, 2010. He further opted for "Life Guardian Rider" along with the said life insurance cover which provides for an additional protection in

case the policyholder dies any time prior to the date of vesting of the policy. In order to avail the rider, he signed a health questionnaire form on 29th March, 2010 and the said policy was issued with date of commencement as 29th March, 2010.The insurer tried to explain the fact that "Life Guardian Rider" is not a one-time lump sum payment to be made on the death of the policyholder. It is only waiver of future premiums in case of death of the policyholder on or before the vesting date. Death claim intimation was received from the complainant on 17th June, 2011 along with the death certificate. As it was an early claim with duration of only 7 months from the date of commencement of the policy, an independent investigation was initiated. It was found that the policyholder was suffering from alcoholic liver disease prior to the date of proposal and was under the treatment of Dr. P.K. Bhattacharya. So, the claim for "Life Guardian Benefit Rider" was repudiated on the ground of non-disclosure of material fact. The case was reviewed by the Zonal Claims Review Committee but the repudiation decision was upheld by the ZCRC. The insurer also added that they have not declared the policy as void. They have only repudiated its liability under the said rider and have allowed the complainant to continue with the policy if she chooses to do so by paying the premiums due.

3. **Hearing**:

Both the parties were called for a personal hearing on 04.07.2012. The complainant did not attend the hearing. We therefore, propose to deal with the matter ex-parte on the basis of her written submission.

The representative of the insurance company reiterated their stand as mentioned in the SCN and discussed above.

4. **Decision**

We have heard the representative of the insurance company and considered the written submission of both the parties. The complainant has approached this forum against the insurer's decision to repudiate the claim on the ground of non disclosure of material fact. It is seen that the duration of the policy was only seven months as on the date of proposal. The proposer had opted for "Life Guardian Rider" benefit which stipulates that "if the policyholder dies before the

vesting date and the LA is a minor, then the future premium under the policy shall be waived. Till the vesting date all benefits under the policy shall continue to be in force and will be available in full to the LA; only the premium due on or after the vesting date will be required to be paid. It is seen that the policy was in force as on the date of death and the "Life Guardian Rider" benefit will be available. However, the insurer has repudiated the claim for "Life Guardian Rider" on the ground that the proposer was suffering from alcoholic liver disease which was not disclosed in the health questionnaire from by the proposer on 29.03.2010. In support of their contention the insurer has submitted a certificate of Dr. P.K. Bhattacharya dated 02.306.2011 certifying that the insured Late Raju Kr. Rajak was under his treatment for the last two years before death and he was suffering from liver disease. The doctor has also referred him for further treatment in hospital. However, the insurer has not submitted any treatment papers like prescription etc. of Dr. P.K. Bhattacharya and their investigating officer has not collected the discharge summary and medical reports from Chanakya Hospital, Patna where the policyholder was admitted from 23.09.2010 t 05.10.2010 prior to his death. Thus, the only documentary evidence is a certificate from Dr. P.K. Bhattacharya which is not sufficient to establish the suppression of material facts.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the insurance company has not established the grounds of suppression of material facts with strong documentary evidence. The certificate of Dr. P.K. Bhattacharya although indicates that the LA had some liver problem since two years but in the absence of any supporting evidence like prescription, investigation report etc., the decision of the insurance company remained unsubstantiated.

We therefore, set aside the erroneous decision of the insurance company and direct them to allow "Life Guardian Rider" benefit as per the terms & conditions of the policy. The complaint is allowed.

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AWARD IN THE MATTER OF

Mrs. Amina Begum

AND

Life Insurance Corporation of India

Date of Award - 8th July, 2011

Complaint No.	:	90/21/001/L/04/2011-12
Nature of Complaint	:	Repudiation of death claim.
Category under RPG	:	12 (1) (b) Rules 1998.
Date of Hearing	:	6th July, 2011

Facts and Submissions

1. **Complainant**:-

The complainant is the wife of the Deceased Life Assured (DLA) Late Sk. Allauddin and the nominee of the above policy. She stated that after the death of her husband on 27th March, 2006, she applied for death claim on the said policy but the insurer repudiated the death claim. She also appealed to the Zonal Claims Review Committee (ZCRC) for reconsideration of the decision of repudiation. But the ZCRC also rejected the death claim, upholding the decision taken by the insurer. So, she approached this Forum and submitted 'P' Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer :-**

The insurer has submitted their SCN vide their letter dtd.28.06.2011 in which it is mentioned that they have evidence to show that LA was treated in Uluberia State District

Hospital from 27.092004 to 01.10.2004 and again treated at New Eden Nursing Home from 08.09.2005 to 12.09.2005. He had also undergone endoscope on 04.10.2005. The policy was revived on 26.10.2005. It is therefore evident that the DLA has fraudulently suppressed his illness at the time of revival of the policy. It is further stated that on claimant's representation, ZCRC reviewed the said claim and upheld the repudiation decision of the insurer.

3. **Hearing**:

Both the parties were called for a personal hearing on 06.07.2011. The complainant attended along with her son and presented the facts of her case. She did not have any fresh argument to present before this forum. She only requested for sympathetic consideration of her case in view of the fact that the policy that premium has been paid for six years and she is facing acute financial hardship after the death of her husband.

The representative of the insurance company on the other hand reiterated their stand as mentioned in the SCN stating that the DLA had fraudulently suppressed his illness at the time of reviving the policy.

4. **Decision**

We have heard the submissions of both the parties and perused the documents filed before this forum. The insurer has filed copies of the prescriptions issued by Dr. Narayan Ch. Manna, who had examined the patient on various dates from September, 2004 to February, 2006. The doctor also issued a separate certificate stating that the LA had attended his chamber on various dates during this period and he was suffering from hypertension and cerebro vascular disease and right sided hemiplegia. His prescriptions also revealed that he was admitted in Uluberia State District Hospital and then at New Eden Nursing Home during the period from 27.09.2004 to 12.09.2005. The policy was revived on 26.10.2005. These facts were not disclosed by the LA at the time of reviving the policy. The copy of the personal statement regarding health, filed by the insurer shows that the LA gave false declaration regarding his disease and treatment.

In view of the above, we are of the opinion that the insurer has established suppression of material fact at the time of revival of the policy which has vitiated the contract of insurance. However, considering the fact that the LA had paid six premiums totaling to Rs.21,846/- and considering the financial hardship of the widow, we allow an ex-gratia payment of Rs.15,000/- to the complainant. The insurer is directed to pay the amount of Rs.15,000/- on ex-gratia basis to the complainant within 15 days from the receipt of this order along with the consent letter of the complainant..

AWARD IN THE MATTER OF

Mrs. Nurges Madan

AND

Life Insurance Corporation of India

Date of Award - 14th July, 2011

Complaint No.	:	110/24/001/L/04/2011-12.
Nature of Complaint	:	Delay in settlement of death claim.
Category under RPG	:	12 (1) (e) Rules, 1998.
Date of Hearing	:	12th July, 2011.

Facts and Submissions:-

1. **Complainant**

The complainant is the wife of the Deceased Life Assured (DLA) Late Nusvan E. Madan and nominee of the above policies. She stated that her husband had taken 7 annuity policies from the above insurer. After the demise of the Life Assured (LA) in the month of October, 2008, she applied for death claim of her husband to the insurer but only 2 claims were admitted. Inspite of several follow-ups with the insurer, the death claim for the above 5 policies has not been settled till date. She is 86 years of age and is having great health and financial problem after the death of

her husband. So, she approached this Forum for justice and submitted "P" Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complainant.

2. **Insurer**

The SCN submitted by the insurer confirms the fact that 3 of the above 5 policies i.e. policy Nos.450338436, 450331260 and 410357684 have already been settled and the death claim amount of Rs.21,800/=, Rs.15450/= and Rs.98,902/= have been paid vide Cheques No.108175, dated 28th June, 2011, No.97715, dated 23rd September, 2010 and No.74566, dated 30th June, 2011respectively. The other 2 policies No.450341327 and 450327038 are in the process of settlement and the delay was due to some technical problem.

3. **Hearing**:

Both the parties were called for a personal hearing on 12/07/2011. The complainant could not attend the hearing on account of advance age. But we have received a letter dtd. 04.07.2011 from her requesting for settlement of the complaint on the basis of the documents filed. The representative of the insurance company informed this forum that they have already settled the death claim of three policies and the claim for other two policies will be settled very shortly.

4. **Decision**

We find that the complainant is an 86 yrs.-old-lady waiting for two and a half years to receive the death claim of her husband. There is no investigation pending. The representative of the Insurer attributed the delay to technical problems, which cannot be accepted as a genuine cause. This is a serious service lapse on the part of the insurer. The mistake has been admitted by the representative and he has assured that the payment will be made shortly. The Insurer is directed to settle the claim of the remaining two policies along with penal interest within 15 days of the receipt of this order, failing which they will be liable to pay further interest at 2% higher

than the prevailing interest rate for the period starting from the date when 15 days are over till the date of actual payment.. The complaint is allowed.

OFFICE OF THE INSURANCE OMBUDSMAN,

HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR

4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	:	1272/21/009/L/02/2011-12
Nature of Complaint	:	Repudiation of Death Claim
Category under RPG	:	12 (1) (b) Rules 1998.
Policy No.	:	076034994
Name & Address of the Complainant	:	Shri Pradip Barik, Vill. Talkantaliya, P.O. Balisai, P.S. Ramnagar, District: Purba Medinipur, Pin: 721 423.
Name & Address of the Insurer	:	Bajaj Allianz Life Insurance Co. Ltd., Ashoka Plaza, 5th Floor, Corporate Software Park, Survey No.32/3, Nagar Road, Viman Nagar, Pune – 411 014.
Present on behalf of the		Shri Prabhat Kumar,

Insurer : Dy. Manager(Operations)

Present on behalf of the

Complainant : Shri Pradip Barik

Date of Order : 6th August, 2012

AWARD

Facts and Submissions

1. **Complainant**

The complainant is the son of the Deceased Life Assured (DLA) Late Jay Barik and nominee of the policy no. 076034994. The DLA had taken the said policy from Bajaj Allianz Life Insurance Co. Ltd. on 15th November, 2007 but the policy was lapsed due to non-payment of premium. The Life Assured (LA) revived the policy on 14th May, 2010 on the basis of health declaration. The LA expired on 21st October, 2010 and subsequently the claim forms were submitted by the complainant to the insurer. The claim was repudiated by the insurer on the ground that the DLA was ill prior to reviving the policy. But the fact of his illness was not mentioned in the health declaration signed by the DLA at the time of reviving the policy. The complainant stated that the LA was not aware of the answers given in the Declaration of Good Health form. He made an appeal to the Claims Review Committee of the insurer but they upheld the repudiation decision taken by the insurer. So, he approached this Forum seeking appropriate relief and submitted "P" Forms giving his unconditional and irrevocable consent for the Hon'ble Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer has submitted their Self-Contained Note (SCN) dated 26th March, 2012 confirming the facts that the policy no.076034994 was taken on 15th November, 2007. The duration of the said policy was 5 months 10 days from the date of revival to the date of death of the LA. The claim was repudiated by the Claims Review Committee on the ground that the DLA

was under consultation/medical investigation/treatment during October, 2009 for left cerebella hemisphere gliosis. These material facts were known to the DLA but were not disclosed in the Declaration of Good Heath dated 14th May, 2010 for reviving the policy.

3. **Hearing** :

Both the parties were called for a personal hearing on 02.08.2012. The complainant attended and submitted the facts and grounds of his complaint. He did not make any new submissions and requested for refund of the revival premium.

The representative of the insurance company on the other hand reiterated their stand as mentioned in the SCN and discussed above.

4. **Decision** :

We have heard both the parties, considered their written submissions and verified their documents submitted to this forum. The complainant has approached this forum against repudiation of death claim of his father on ground of suppression of material facts relating to his past treatment and health condition. From the analysis of the facts, we find that the DLA had obtained the policy on 15.11.2007 which got lapsed due to non-payment of premium in December, 2008. The policy was revived on 14.05.2010 on paying revival premiums of Rs.14000/-. The DLA expired within six months of the revival of the policy on 21.10.2010. The investigation conducted by the insurance company has revealed that the DLA was under regular treatment for respiratory distress and neurology under Dr. Dipanjan Mukherjee and Dr. Debabrata Roy during the period from October, 09 to December, 2009. The insurance company has submitted copies of the prescription of Dr. Dipanjan Mukherjee dated 13.10.2009 for treatment which shows sudden onset weakness (right side) combined with loss of speech. He was prescribed a number of tests including CT scan of brain and to consult a Neurologist. Subsequently the DLA visited the Neurologist Dr. Debasish Roy as per his prescription dated 16.10.2009 and was under his treatment. He was further treated by Dr. Dilip Nayak who advised hospitalization vide his prescription dated 22.10.2009. There are several prescriptions of Dr. D. Roy which show that the DLA was under his continuous treatment till May, 2010. Thus it is evident from the above medical documents that he was suffering from Neurological problems prior to the revival of the policy. But these consultations with the doctors and investigations were

not disclosed by him in the declaration of good health at the time of the revival of the policy. The cause of death was cardiac respiratory failure in a case of linear hypodense lesion on the left superior cerebella hemisphere in the brain which is close nexus with the medical problems he was suffering from. The complainant has not disputed these facts.

After careful evaluation and consideration of all the facts and circumstances of the case, we are of the opinion that the insurance company has established the suppression of material facts with strong documentary evidence which shows that the insurance company has sufficient ground to void the contract. The complainant has opted for refund of the revival premium in view of his financial stringency. We accordingly allow an ex-gratia payment of Rs.14000/- equal to the revival charges and directing the insurance company to pay the amount within 15 days along with receiving the consent letter from the complainant.

The complaint is allowed.

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AWARD IN THE MATTER OF

Smt. Shila Paul

AND

Life Insurance Corporation of India

Date of Award - 19th August, 2011

Complaint No.	:	274/24/001/L/06/2011-12.
Nature of Complaint	:	Delay in settlement of death claim.
Category under RPG	:	12 (1) (e)Rules, 1998.
Policy No.	:	433735276
Date of Hearing	:	17th August, 2011.

Facts and Submissions:-

1. **Complainant**

The complainant is the wife of the Deceased Life Assured (DLA) Late Chittaranjan Paul and nominee of the above policy. The Life Assured (LA) died on 3rd June, 2010 in a case of accidental drowning in a pond while he was visiting his factory. The policy was taken under Bima Nivesh Plan (Table 132) which did not have any accidental coverage. She has submitted the claim form as per rules but the insurer has not settled the death claim and has asked her to submit a copy of the FIR and final police report. She stated that the proof of death has been submitted to the insurer but inspite of several follow-ups, the insurer has not settled the claim till date. So, she approached this Forum seeking justice and submitted "P" Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The SCN dated 26th July, 2011, submitted by the insurer, confirms the fact that the LA died on 3rd June, 2010 and the cause of death was drowning as stated by the complainant (nominee) in Claim Form 'A'. As per their record, the nominee is Shelly Paul which was rectified as Shila Paul by submitting an affidavit. As per postmortem report, the cause of death is not clear. The place of death of the LA is Kulai, Panchla, Howrah whereas the recorded address of the LA is 10A, Ballygunge Circular Road, Kolkata – 700 019. They also stated that as the cause of death cannot be ascertained from the PMR, the concerned Branch has called for FIR and FPR from the claimant which are essential to ascertain the actual cause of death – whether it is suicidal, accidental or otherwise. But the claimant has not submitted the same. So, they could not settle the claim.

3. **Hearing** :

Both the parties were called for a personal hearing on 17.08.2011. The complainant was represented by her son who submitted before this forum that the death claim of his father is pending for a long time and pleaded for early settlement.

The representative of the insurance company explained the reasons for non-settlement of the claim. They stated that they have asked the claimant to file a copy of the FIR & FPR which are essential to ascertain the actual case of death and the same was not filed by the claimant.

4. **Decision**

We have heard the submissions of both the parties and examined the document submitted to this forum. It is seen that the DLA had invested in Jeevan Nivesh plan which is a single premium policy and the policy has continued for more than nine years. The said plan does not have the accident benefit, so in our opinion the FIR & FPR are not required to settle the claim. Death claim becomes payable only on establishing the death and identity of the DLA. In the present case due to some doubt regarding the identity of the DLA, the insurer has called for FIR & FPR which are not available with the complainant. We find that it is a simple death case in which enough documents like death certificate; PMR etc. have been filed to establish the identity of the deceased. As the claim is non-early in nature, it is payable irrespective of the fact whether the death is suicidal or accidental.

After evaluating all the facts and circumstances of the case, we are of the opinion that there is no real justification for keeping the claim pending on some minor issues. The claim is genuine and the insurer is directed to admit the claim on the basis of the PMR and death certificate and settle the same within a period of 15 days from the date of receipt of the order and the consent letter of the complainant. The complaint is allowed.

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AWARD IN THE MATTER OF

Mrs. Vinita Kumari

AND

Bajaj Allianz Life Insurance Co. Ltd

Date of Award - 29th August, 2011

Complaint No.	:	210/21/009/L/05/2011-12
Nature of Complaint	:	Repudiation of death claim.
Category under RPG	:	12 (1) (b) Rules 1998.
Policy No.	:	29896412
Date of hearing	:	25th August, 2011.

FACTS AND SUBMISSIONS

1. **Complainant**

The complainant Mrs. Vinita Kumari is the wife of the Deceased Life Assured (DLA) Late Sanjay Singh and the nominee of the above policy. She stated that her husband was the Branch Manager of Bajaj Allianz Life Insurance Co. Ltd., Bettiah Branch. During his service period, he purchased the above policy from the insurer. Subsequently, the said policy was revived on 21st September, 2009. Thereafter, her husband expired on 22nd September, 2009 i.e. one day after the revival of the policy. After demise of her husband, she applied for the death claim of her husband to the insurer but the same was repudiated by the insurer. So, she appealed to the Claims Review Committee for review of the decision taken by the insurer. But the Claims Review Committee, based on the facts of the case, has not found possible to reverse the earlier decision of repudiation which was communicated to the complainant vide letter dated 5th February, 2011. Finding no other alternative, she approached this Forum seeking justice without submitting 'P' Forms to us as yet though the same was sent to her on 27th May, 2011. (Subsequently submitted on the date of hearing).

2. **Insurer**

The insurer has submitted their SCN on 23rd June, 2011 wherein they have stated that the DLA had history of head injury/hospitalization following road traffic accident on 20th September, 2009 resulting into right parietal epidural haemorrhage. They have relied on the Medical Attendant's Certificate from Dr. Ashok Kumar Sinha, MBBS, Patna, which reveals the facts as mentioned above. They have also F.I.R., Final Report from Sugauli Police Station and Post Mortem Report from Patna Medical College, Patna, which also reveal the cause of death

due to head injury. These material facts known to the Life Assured (LA) were not disclosed in the Declaration of Good Health dated 21st September, 2009, on the basis of which they repudiated the death claim of her husband.

3. **Hearing** :

Both the parties were called for a personal hearing on 25.08.2011. The complainant attended and stated before this forum the facts and grounds of her complaint. She stated that her husband made with a road accident on 20.09.2009 resulting into head injuries due to which he expired in the hospital on 22.09.2009. His policy which was in lapsed condition was revived on 21.09.2009 by depositing the premium amount of Rs.40,000/- in cash in the insurer's office in Muzaffarpur. The accident took place in Betia near Patna and her husband was admitted in the hospital in a serious condition in Patna. She however, could not explain how the revival premium was deposited just on the next day of her husband's accident in Muzaffarpur which is far away from Betia. She also stated that her husband was in a critical condition and she had no idea how the premium was deposited and the policy was revived. She pleaded that if death claim is not admissible then at least premium deposited by her husband just before death should be refunded.

The representative of the insurance company on the other hand reiterated their stand as mentioned in the SCN and discussed above. He stated that the policy was revived just one day before death of the LA and at the time of revival he signed the declaration of good health without disclosing that he had met with a serious road accident and suffered to the head injury in the declaration.

4. **Decision** :

We have heard the submission of both the parties and examined the documents submitted to this forum. The insurer has repudiated the claim on the ground of the suppression of material facts relating to the injuries suffered during an accident just one day prior to the revival of the policy. This fact which was very much within the knowledge of the LA was not disclosed in the DGH, signed on 21.09.2009 before LA expired on 22.09.2009. The insurer has relied on the medical attendance certificate given by Dr. A.K. Sinha, which revealed that the DLA had history

of head injury/hospitalization following road accident on 20.09.2009. This fact has also confirmed by the FIR, PMR & PFR copies of which have been filed before this forum. Further, it is seen that after the road traffic accident, the LA was admitted in a serious condition in Patna Medical College on 20.09.2009. He signed the form for revival of the policy and the declaration of good health in that serious condition from the hospital on 21.09.2009 and deposited the revival premium of Rs.40,000/- in cash on the same day at a place (Muzaffarpur) which was far away from the hospital. It is also seen that the DLA was an employee of the insurance company and therefore, it is quite possible that the insurer had the knowledge of the road accident met by the LA and the policy was revived with the full knowledge of the insurer about the accident/hospitalization. The LA expired just on the next day of the revival of the policy. Under the circumstances, it appears that the revival of the policy was managed by the LA with the help of his office staffs.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the revival of the policy was done by the insurer hurriedly on the basis of the DGH signed by the LA and receipt of the revival premium. But, the possibility that the revival was done by the insurer with full knowledge about the accident and hospitalization, cannot be ruled out. Under the circumstances, we are of the opinion that the decision of revival of the policy was not in order. The insurer is therefore, directed to refund the revival premium paid on behalf of the LA to the nominee under this policy within 15 days of receiving the copy of the order along with the consent letter from the complainant. No death claim is payable in this case. The complaint is partially allowed.

AWARD IN THE MATTER OF

Smt. Sima Roy

AND

HDFC Standard Life Insurance Co. Ltd

Date of Award - 14th September, 2011

Complaint No. : 382/21/005/L/07/2011-12.

Nature of Complaint	:	Repudiation of death claim.
Category under RPG Rules, 1998	:	12 (1) (b)
Date of Hearing	:	13th September, 2011.

Facts and Submissions

1. **Complainant**

The complainant is the wife of the Deceased Life Assured (DLA) Late Dipak Roy and nominee of the above two policies. According to her statement, the DLA had taken two policies bearing No. 10804221 & 11061608 from HDFC Standard Life Insurance Co. Ltd. in the month of October, 2006. Subsequently, he expired on 9th December, 2007. Consequent upon the death of the Life Assured (LA), the complainant submitted claim forms to the insurer but she was informed that the claim was repudiated on the ground of suppression of material fact. She made several correspondences and tried to prove that her husband was not suffering from pre-existing disease like diabetes. She has submitted two blood reports taken six months prior to taking the policy revealing the fact that the DLA did not have high blood sugar as pointed out by the insurer. But the insurer did not consider these reports. So, she approached this Forum seeking justice and submitted 'P' Forms giving her unconditional and irrevocable consent for the Insurance Ombudsman to act as a mediator between the insurer and the complainant for resolution of the complaint.

2. **Insurer**

The insurer has not submitted their Self-Contained Note (SCN) to us till date but the repudiation letter reveals the fact that the claim was repudiated on the ground that the DLA had high blood sugar before the date of applying for the said policies. On their investigation, they have also stated that the medical records of November, 2002, December, 2004, August, 2005 and May, 2006 of Swasti Diagnostic Centre show that the DLA was having high blood sugar prior to the policy issue date. Also as per the letter from Dr. Sumitra Rahman (family doctor) in May, 2006, the DLA's blood sugar was as high as 234 mg. He was on treatment under Dr. J. Deb at

Anandalok Hospital. The DLA was also admitted in hospital on 16th April, 2007 to November, 2007 and diagnosed as patient of hypertension with GERD, which was not disclosed in the proposal form. So, the claim for both the policies was repudiated due to non-disclosure or withholding the material fact.

3. **Hearing**:

Both the parties were called for a personal hearing on 13.09.2011. The complainant attended and explained the facts and grounds of her complaints. She stated that although her husband was suffering from diabetes prior to taking the policy, but it was under control. He had disclosed this fact to the agent, who advised him not to disclose the same in the proposal form. She also produced the blood sugar report of her husband taken few months prior to commencement of the policy in which the blood sugar level is shown as normal. She requested for early settlement of her claim and compassionate consideration of her case.

The representative of the insurance company on the other hand, explained the grounds of repudiation being suppression of material facts. However, they have submitted their SCN along with relevant evidence after the hearing on 19.09.2011.

4. **Decision**

We have heard the submissions of both the parties and carefully examined the various documentary evidences submitted to this forum by them. The insurance company has submitted that the Life Assured had applied for a Unit Linked Suvidha Plan with sum assured for Rs. one lakh on payment of premium of Rs.20,000/-. The commencement date was 13.12.2006 and the date of death was 09.12.2007. Thus the policy duration was 11 months and 26 days. Due to short duration of the policy, the company made investigation to verify the genuineness of the claim and their investigation has revealed that at the time of taking the policy the DLA was suffering from diabetes. But he did not disclose this fact in the proposal form. In support of their contentions they have submitted the prescriptions of Dr. Mukul Ray Chaudhuri dtd.30.11.2002, dtd.27.08.2005 in which the blood glucose level is shown quite high suggesting diabetes. Further Dr. R.N. Chakraborti's report dtd.28.05.2006 also shows that DLA had a very high glucose level of 234 (PP). These facts are also confirmed by the DLA's family doctor Dr. Sumita Rahman in her certificate dtd.28.05.2008. It is further noted that the LA was admitted in Anandalok Cardiac

Centre during 16.11.2007 to 19.11.2007 where he was advised on discharge 'diabetic diet'. Thus from all the above documentary evidences, it has been established by the insurer that DLA was suffering from diabetes prior to the date of commencement of the policy. But these facts were not disclosed by him in reply to the specific questions relating to diabetes in the proposal form and he signed the declaration and the endorsement that he was not suffering from any illness/disease prior to the proposal date. The complainant has also admitted the problem of diabetes during the course of hearing and contended that the DLA did not disclose it at the advice of the agent.

It is now well settled by the Hon'ble Supreme Court in the case of P.C. Chacko and Another vs. Chairman LICI and S. K. Sandhu vs. New India Assurance Company that insurance is a contract based on the principle of utmost good faith on the part of the LA. Therefore, whenever information on specific aspect is asked for in the proposal form, the assured is under solemn obligation to make true and full disclosure of the information on the subject which is within his knowledge. In this case, the LA was fully aware of the facts relating to his hospitalization and treatment of diabetes disease. If he had replied to the questions truthfully and correctly, special medical reports and tests were required and they would not have issued the policy on the existing terms. The deliberate misstatement made by the LA has violated the principle of utmost good faith and led to wrong underwriting decisions as a result of which the contract of insurance has become null and void.

After evaluation of all the facts and circumstances of the case, we are of the opinion that suppression of material facts has been established by the insurer in this case with conclusive evidence. The repudiation claim on the ground of suppression of material fact is correct and the same is upheld. However, considering the extreme financial hardship of the complainant, we allow an ex-gratia payment of Rs. 15000/- to her. The insurer is directed to pay this amount within 15 days of getting the consent letter of the complainant..

The complaint is partly allowed.

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