

Life Insurance

1. Death Claim

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0180

Mr. Sunilkumar Pandav

Vs.

Life Insurance Corporation of India

Award Dated 14.10.2004

Joint Policy - Insured died in the Hospital on the same day of her delivery on 29.06.03. Policy commenced from 9.12.2002. Complainant submitted that Proposal was a Medical one and hence both of them were medically examined by a Panel Doctor of the Respondent. Hence repudiation on the ground of suppression of material fact, is to be set aside. Respondent submitted that the DLA suppressed the very fact that she was pregnant at the time of Proposal and even misguided them by mentioning her last date of menstruation as 29.12.2002 in the Declaration of Good Health dated 29.12.2002. Verified the records such as DGH and MAC and observed that the suppression of fact is established by the Respondent. Complaint dismissed without any relief.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0182

Mr. Manibai J. Patel

Vs.

Life Insurance Corporation of India

Award Dated 14.10.2004

Complainant and his wife held a joint Policy. Claim arose from death of wife. Grounds of repudiation, suppression of facts. DLA was a rural house - wife and was assisting in farming till her death. Based on a COT and a letter issued by one Dr. J. P. Patel, wherein it was stated that the DLA was under his treatment for 2 years due to efficiency of Haemoglobin and general weakness and that he had advised to send the DLA for further treatment, The Respondent argued that the DLA suppressed the material facts and hence, repudiation is justifiable. The point taken to determine the case is that whether suppression of facts is proved by the Respondent or not. Documents perused. It is observed that to ascertain deficiency of Haemoglobin, Pathological tests were to be conducted, but Dr. Patel never referred to her for such diagnostic or curative treatment during the span of 2 years and the Investigating Officer also could not procure any such evidence. Referring to the answer to Question 5 (d) in the COT given by Dr. Patel that the patient herself told him about her lack of Haemoglobin, it is opined that a rural woman who is doing farming will not be able to make such remarks. The COT was more or less blank and in the bottom of it Dr. Patel has written in vernacular language that 'No treatment given to this patient'. The letter given by him to the Respondent that he had advised the DLA for further treatment was without referring to any Doctor's name to be consulted. In such reasons no weight age has been given to the COT or to the letter. Reference also been made in certain land mark judgements such as Smt. Alia Begum Vs. LIC (1986 - 99 Consumer 4449 NS), LIC Vs. Snjeev M. Shah (1 1998 CPJ 45 NC) and LIC Vs. G. M. Channabasamma (1 1991 ACC 411 DB). Claim allowed for full S. A. alongwith 8 % simple interest.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0038
Smt. Maheshwari M. Patel
Vs.

Life Insurance Corporation of India

Award Dated 18.10.2004

Mr. M. D. Patel proposed for a 5th Policy with Extended Disability Benefit under Salary Saving Scheme. He paid Rs. 270/- on 28.12.02 and Rs. 100/- on 8.1.2003 towards Premium. He died in an accident on 14. 1.03. Respondent denied liability since the contract was unconnected till the death of Proposer due to short remittance of Rs. 10/- against premium required. The required premium was Rs. 380/-. Complainant submitted that Respondent never informed that Rs. 10/- is further required against premium and contended that it is only an alibi to deny the claim. It is observed that both the parties intention was genuine and serious to enter into an insurance contract. While accepting the proposal on 6.4.03 there was a balance of Rs. 110/- to be received towards premium for which Rs. 100/- was received on 8.1.03 leaving Rs. 10/- short, resulting the contract as uncompleted. In this regard a reference has been made to Supreme Court's decision in such a similar case (1984) 2 SC cases 719). Since the contract was an uncompleted one, considered the aspect for ex-gratia payment. It is observed that there are number of materials on record to consider for ex-gratia payment. It is observed that D. O. of the Respondent forwarded the case to Zonal Office for consideration of ex-gratia. The Agent in his explanation on short payment of Rs. 10/- stated that he was not informed by anyone in this regard. The main conclusions arrived at are; the subject contract in an uncompleted contract and hence death claim does not arise. Payment of basic S. A. and DAB on ex-gratia basis are justified. Directed to pay basic S. A. alongwith DAB on ex-gratia basis to the Complainant.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0179

Mr. Jignesh K. Prajapati

Vs.

Life Insurance Corporation of India

Award Dated 25.10.2004

Repudiation of death claim. Complainant, son of DLA. Risk accepted on 1.2.01 and the LA died on 22.9.03. Complainant did not appear in the Hearing. Respondent submitted that the DLA had registered his case with Gujarat Cancer and Research Institute on 17.11.2000 and he was diagnosed as a Cancer Patient. Documents perused. It is observed that as per the COT issued by Dr. K. M. Patel, Professor, Gujarat Cancer and Research Institute, the DLA was Cancer Patient and the disease was diagnosed as Cancer of Post - Cricoid - HPE prior to the date of Proposal, but, this fact was not disclosed by him in the Proposal Form. The DLA had wilfully and fraudulently suppressed the material information. Protection of the ennobling provision of Section 45 is also not available to DLA. Repudiation upheld.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 160

Smt. Mamta M. Shah

Vs.

Life Insurance Corporation of India

Award Dated 25.10.2004

Death claim - LA suddenly died by heart attack. He had been holding 4 Policies out of which claims under 3 Policies were settled. The claim under the subject Policy was repudiated on the ground of suppression of material facts in the Proposal form with regard to hospitalisation for treatment of Ureteric Calculus. Complainant though admitted the fact

of treatment for urinary tract infection taken by the DLA, denied any malafide intention of DLA to defraud the Respondent. She submitted that the Panel Doctors of the Respondent had medically examined the DLA and the Medical Reports were submitted alongwith the Proposal. Based on Mediclaim Policy that the DLA was maintaining with United India Insurance Co., the Respondent argued that the DLA did not disclose the fact of treatment taken for his Ureteric Calculus which has prejudiced their underwriting decision and withheld them from calling for further special reports and hence pleaded for sustaining the repudiation. It is observed that though suppression of fact had been proved by the Respondent, mere suppression is not enough in the instant case to repudiate the claim as duration between date of repudiation and date of effecting the contract exceeds 2 years attracting beneficial legislation laid down in Sec. 45. Documents perused. Medical Examiner's confidential Report had confirmed sound health of DLA. The procuring Agent as well as the Branch Manger's Reports were favorable to DLA. The Treating Surgeon's certificate did not point out any chronic nature of disease. No fraudulent intention to defraud the Respondent is established. Further, the cause of death is by sudden heart attack which has no nexus between death and suppressed urinary tract infection. The judicial pronouncements also hold this view. Repudiation set aside. Respondent to pay full S. A. with bonus accrued with 8 % simple interest.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 148

Shri Bhanubhai U. Monpara

Vs.

Life Insurance Corporation of India

Award Dated 28.10.2004

Death claim - Policy commenced on 28.2.01 - LA died on 2.11.02. Complainant, husband of DLA. Repudiation due to suppression of facts. Respondent was called for Hearing and heard. To establish suppression of facts, Respondent submitted statements from Mr. Sanjay Sanchalia, Dr. V. V. Chapadia, both neighbors of the DLA and statement, certificate and prescription form Dr. K. I. Shah. On perusal of these documents, it is observed that as per the statement of Sanchalia, the DLA was taking treatment from Dr. V. V. Chapadia and also from Dr. Pansuriya. As per Dr. Chapadia's statement, the DLA was sick for last 5 years and was taking treatment from Dr. Pansuriya and Dr. K. I. Shah, but he himself did not treat the DLA though he is DLA's neighbor. Respondent did not submit any documentary evidence from Dr. Pansuriya who has been named as one of the Treating Doctors of DLA by Dr. Chapadia and by S. Sanchalia. Perusing the Certificate from Dr. K. I. Shah, it is observed that Dr. Shah has written that the DLA had consulted him in 1996 (not since 1996) only once for Asthamatic Bronchitis. Referring to the Prescriptions of Dr. Shah, it is noted that although Dr. Shah had mentioned three Doctors name in it, the Respondent did not produce any statement from these Doctors to establish that the DLA had been treated by them between 1996 and 2001. In view of no significant evidentiary documents to establish suppression of facts and also in view of judicial pronouncements in the decided cases viz. Sanjeev Mahendralal Shah [I (1998) CPJ 45 (NC)] and Smt. G. M. Channabasamma [I (1991) ACC 411 (DB)] Vs. LIC the subject case is decided in favour of the Complainant. Respondent to pay full S.A. with Bonus, if any, alongwith 8 % simple interest.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0097

Smt. Ramaben V. Patel

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2004

Mr. Vanmali Patel who had been holding LIC Policy died on 20.7.1993. The maturity date of the Policy was 15.12.03. On 18.7.03 Respondent sent maturity intimation letter to DLA and another letter dated 22.10.03 for compliance. On receipt of these letters, Complainant Smt. Ramaben Patel informed the Respondent on 28.01.04 about the LA's death in 1993 and claimed for the proceeds of the Policy which was turned down by the Respondent. Respondent submitted that the LA died on 20.7.1993 was never intimated to them and as a result, the Policy continued in its Paid-up status. The death was intimated only in January 2004 and hence, the case became time barred and except this infirmity, they have no problem to settle the Claim. Complainant submitted that she or her family was not aware of the existence of the Policy till they received the letters from LIC. Documents and submissions perused. It is observed that except afflux of time there is no infirmity in this case. Nothing found to disbelieve the pleading of the Complainant. To decide the case, reference has been made to certain judicial pronouncements on such generic issue. The cases referred to are Mrs. Agne's D'Mello Vs. Canara Bank and Consumer Education and Research Society and Another Vs. LIC of India [I (1993) CPJ 128 (NC)]. Based on above observations, it is held that merely on technical plea of time bar, denial of a claim is unfair. Respondent to pay Paid-up Value (with Bonus if any) to the rightful Claimant.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 143

Shri Rakshit R. Mehta

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2004

DLA, wife of Complainant. Her Policy started with risk date effective from 20.3. 2002. On 14.9.2002 she died. Claim repudiated on the ground of suppression of fact. Complainant submitted that before accepting the Proposal, DLA was medically examined by the Panel Doctor of the Respondent. Further, the DLA had disclosed in the Proposal Form that she had hemophagia in 1992 and her consequent problem in movement of Right side of the body. Apart from these disclosed problems of DLA there was nothing significant to be disclosed. The death was caused by a sickness in Perianal area which was detected in July 2002 only. Respondent submitted that the DLA was suffering from Gastro - intestinal infection and was treated for 2 days by Dr. Deliwala and this fact was not disclosed by the DLA. Documents and submissions perused. For proper understanding the gravity of omission of gastro - enteritis, referred to the Medical Dictionary of the British Medical Association and observed that it is absolutely a commonplace illness. Next point examined is that whether such omission of common diseases are to be taken as the base for death claim repudiation ? In this connection, a reference is made to the case [I (1998) CPJ 45 (NC)] wherein the generic observation made by NC is "it is not that the Assured is required to disclose casual ailment" and that "the sickness, ailment which was required to be disclosed is that with refence to serious disorders in health". Next document perused is the Pathological Report and observed that the perianal Hematoma with Abscess that the DLA suffered from preceding to death was detected in July 2002. The Investigation Report of the Respondent's own officer also could not bring out any negative Report towards the genuineness of the claim. Respondent gave no weight age to the Investigation Report, but more weight age was given to mere omission in non - disclosure of common illness as a sole ground for repudiation. Claim allowed for full SA with 8 % simple interest.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0068

Mr. Ramesh D. Makwana
Vs.
Life Insurance Corporation of India

Award Dated 02.11.2004

Repudiation of death Claim. DLA, wife of Complainant. Risk accepted on 15.5.2002 - LA died on 12.4.03 due to Rheumatic Heart Disease. The point taken for determination is whether the DLA was suffering from Rheumatic Heart Disease and whether this fact was disclosed in the Proposal Form while proposing for insurance. Documents perused. It is observed from the certificate of Attending Medical Officer, Civil Hospital, Bhavnagar that the case history was noted as K / C / O / RHD. Suppression of material fact established. Complainant dismissed without any relief to the Complainant.

Ahmedabad Ombudsman Centre
Case No. 21 - 001 - 0205
Mr. Manubhai R. Bhoi
Vs.
Life Insurance Corporation of India

Award Dated 18.11.2004

Complainant's Son who held Policy on his life died on 11.4.03. The Policy commenced on 28.11.02. Claim repudiated on the ground of suppression of facts. The point taken for determination was whether suppression of fact is proved and if so, was it material for underwriting decision. Documents and submission perused. It is observed from the COHT of Mulgibhai Patel Urological Hospital that the DLA was admitted in the said Hospital on 29.1.03 due to Oedema feet and the duration of the complaint is indicated 4 months and the diagnosis was Chronic Renal Failure. Hence, the suppression is proved by the Respondent. It is also observed from the documents that the h / o disease was reported by the Complainant itself to the Treating Doctor, but the Complainant did not disclose the fact of ailment of his 12 year old son, in the Proposal Form. Repudiation upheld.

Ahmedabad Ombudsman Centre
Case No. 21 - 001 - 0138
Smt. Y. D. Solanki
Vs.
Life Insurance Corporation of India

Award Dated 06.12.2004

Complainant's husband was having 2 Insurance Policies. One Policy revived on 4.12.02 and the second one completed on the basis of Medical Report and personal statement on the aforementioned date itself. LA died on 17.12.03. Respondent repudiated the Claim on the ground that the DLA was suffering from Cancer prior to revival of the Policy, the fact which was not disclosed. Respondent submitted Claim Form B & B1, COHT, all from Civil Hospital, Surat, a Certificate of Dr. Jayesh Shah and History Sheet and Records from Gujarat Cancer & Research Institute in support of their contention. The Respondent stated in the repudiation letter that they have indisputable evidence to prove that the DLA took treatment for Cancer prior to revival of Policy on 4.12.02 and also treated for Cancer in August 2002 and special investigations were also made on 30.7.2002. The point of determination in this case is whether the Respondent could indisputably establish the aforesaid allegations as per documents submitted by them. It is observed that Dr. Jayesh Shah's Certificate never stated that any treatment was administered to the DLA. When asked to the Respondent to identify any document to prove that the DLA took treatment for

Cancer, they admitted that except recording of consultation / opinion there is no evidence to prove the same. The History Sheet and records of Gujarat Cancer & Research Institute also did not mention anything that the DLA was treated for Cancer one year before from August 2003. The inhouse investigation conducted by the Branch Manager also concluded his Report with the comments that the Claim is genuine and need to be admitted. Reference also has been made to judicial pronouncements in I [(1998) CPJ 45 (NC)] and III (1999) CPJ 43. Held that no evidence could be submitted by the Respondent to prove that the DLA took treatment for Cancer prior to revival of Policy on 4.12.2002. Repudiation set aside. Respondent to settle the claim under both the Policies alongwith 8 % interest computed from the immediate subsequent date when 6 months expired since lodging the Claim.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 149

Smt. Puriben Parmar

Vs.

Life Insurance Corporation of India

Award Dated 7.12.2004

Complainant's husband was the Holder of an LIC Policy. He died in Sept. 2001. Complainant lodged claim, but it was repudiated on the ground of suppression of facts in the Proposal dated 31.1.2000. Complainant was not called for Hearing since the documents submitted from her side was considered enough. Respondent was asked to list out the documents relied upon by them in effecting repudiation. He listed out COT, COHT, Claim Form - B and Leave Statement. Documents perused. Certificate of Sick Leave took by the DLA has not considered as a prime evidence since it is a wide spread practice amongst Staves to take SL under the pretext of fictitious diseases, particularly because neither the copy of Application nor the specific ground for taking leave could be produced. It is observed that in any one of the Documents such as COT, Claim Form - B, COHT, the duration of the DLA's disease had been mentioned earlier than - 14.1.2001. The inhouse investigation conducted by the Respondent also could not bring out any precise or assertive conclusion. Suppression of facts is not proved. Respondent to pay full SA with 8 % simple interest to the Complainant.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0248

Smt. Ratuben Chaudhary

Vs.

Life Insurance Corporation of India

Award Dated 14.12.2004

Complainant's Husband took the Insurance Policy on 15.1.03. He died on 13. 4.03. Claim repudiated on the grounds of alleged incorrect statement and withholdment of material information regarding state of health o the DLA. Documents and submissions perused. It is observed from the COHT and MAC that the DLA was Heart Patient and had Heart Attack a few years back. As regards the responses given by the DLA in the Proposal Form against Questions regarding Heart Disease and Hypertension, it is opined that the DLA's negative answers have vitiated the underwriting decision of the Respondent. The primary cause of DLA's death being Inferior Wall M. I. C Hematoma, it had close nexus with the Radiological Findings dated 12.7.1997 done by Uramil Heart & Lung Centre. Repudiation Upheld.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0249
Mr. K. D. Dodiya
Vs.
Life Insurance Corporation of India

Award Dated 27.12.2004

Complainant and his Spouse held a Joint Life Policy. Proposal was accepted on OR with DAB subject to Clause 4 (b). Wife died by electric shock on 11.1.03. Claim lodged. Respondent decided to refund the premium received, since the Claim was arisen as a result of stipulated contingencies including "Accident other than an accident in a public place". Complainant was not called for Hearing since the documents submitted by him were adequate. Heard the Respondent and perused the documents. It is observed that there are enough evidences to prove conclusively that the death was by accident. The only infirmity that affected the death from the stand point of claim settlement is that it did not take place in a public place in the strict sense of the term attracting the provisions of Exclusion Clause 4 (b) literally. Respondent submitted that this Clause was introduced by their Actuarial Department's Circular did. 8.3.1985 to prevent from manifold who take pre-meditated Policy on the lives of house - wives and enrich themselves by enacting dubious accidental death of women. Further observed that the death by accident was not doubted and the Investigation Officer also confirmed the death by electric shock when switched on the water pump and concluded the claim as genuine. The internal noting of the Respondeat also recommended that the claim may be admitted for sum Assured without going by Clause 4 (b) literally. The directions of Hon'ble courts to follow "Main Purpose of Rule" in the Cases of [187 ACJ 411 (SC)] and [AIR 1996 SC 2054] have also referred. Respondent to pay SA and Bonus alongwith 8 % simple interest.

Ahmedabad Ombudsman Centre
Case No. 21 - 001 - 0254
Smt. Zahedabanu I. Raja
Vs.
Life Insurance Corporation of India

Award Dated 27.12.2004

Repudiation of Death Claim - Claim arose from the death of Complainant's Husband. Respondent repudiated the claim due to withholdment of correct information and suppression of material fact committed by DLA regarding his state of health at the time of proposing for insurance. The pleading of the Complainant was that the DLA experienced chest pain and subsequently died by Heart Attack. Examined the evidences adduced by the Respondent in support of their repudiation. It is observed that there are Exhibits submitted by the Respondent such as Medical Report from Bharuch Hospital, MAC issued by Dr. Arvind Iyer and COHT from Bharuch Hospital, all revealed that the DLA was suffering from Heart Disease and Diabetes Mellitus and had taken treatment in May 2001 in Bharuch Hospital. It is also observed that the DLA did not disclose the fact of his state of health in the Proposal Form. Repudiation upheld.

Ahmedabad Ombudsman Centre
Case No. 21 - 001 - 0203
Shri Mukeshkumar C. Shah
Vs.
Life Insurance Corporation of India

Award Dated 30.12.2004

Wife of the Complainant was holding two LIC Policies. After her death, the claim lodged was repudiated on the ground of withholdment of material information regarding her health and mis-statement. Documents perused. It is observed that in the COHT issued by Associate Professor of Surgery, M. P. Shah Cancer Hospital, it has been indicated that the DLA registered her case with the Hospital in May 2002 and the diagnosis arrived at is Cancer of left Maxilla. It is also observed that the answer to questions 11 (a), (b), (c) & (i) of proposal Form was given in negative by the DLA. As the Proposal Form was submitted subsequent to May 2002, suppression of health history and mis-statement committed by the DLA is proved. The ennobling provisions under Section 45 of the Insurance Act 1938 is also not available to the Complainant. Repudiation upheld.

Ahmedabad Ombudsman Centre

Case No. 24 - 001 - 0201

Smt. Neha S. Shahl

Vs.

Life Insurance Corporation of India

Award Dated 10.1.2005

The Claim was arisen from the death of complainant's husband for DAB in seven LIC Policies. Just in the moment of Hearing, it was come to the knowledge of the Forum that the Complainant had approached the Consumer Redressal Forum. Hence u/s. 13 (c) of RPG Rules, 1998, an Order is issued dismissing the complaint.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0075

Smt. Pramila N. Patel

Vs.

Life Insurance Corporation of India

Award Dated 18.1.2005

Death Claim - Complainant wife of DLA. Respondent repudiated the claim on the ground of deliberate mis - statement and withholdment of material information. They also claimed to have indisputable proof to prove that the DLA was suffering from HT, IDDM with Bronchial Asthama etc. To substantiate their contention, the Respondent relied on MAC, COHT and Claim Form - B issued by the Treating Doctor. The point taken for determination is whether the DLA knowingly suppressed the material information as alleged by the Respondent in their repudiation letter. Documents perused. It is observed that none of the aforementioned Certificates revealed any past history of diseases. In the meantime, the Treating Doctor mentioned in the diagnostic part of Form - B that he ascertained the disease from symptoms and appearance. The inhouse Investigator as well as the DMR of the Respondent could not find any evidence of pre-existence of disease. Respondent to pay proceeds of the subject Policy alongwith 8 % simple interest computing from 2 months after the claim Form submitted.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0107

Smt. Snehlata B. Maru

Vs.

Life Insurance Corporation of India

Award Dated 18.1.2005

Complainant's husband took a Policy vide Proposal dated 27.01.03. He died on 1.4.03 due to Cancer in Pancreas. Claim repudiated on the ground of suppression of material fact with regard to state of health of DLA. Complainant submitted that the DLA was not aware of disease. Respondent produced before the Forum COTs and COHT to substantiate their pleading that the disease was pre-existing, the fact of which was not disclosed while proposing for insurance. Documents perused. It is observed that in all the Certificate submitted by the Respondent clearly indicated that the DLA was suffering from this disease prior to the proposal for insurance. Repudiation upheld.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0204

Smt. Pratima S. Patel

Vs.

Life Insurance Corporation of India

Award Dated 18.1.2005

Mr. S. D. Patel had held three LIC Policies. After his death due to Cancer - BM (Left) in July 2003, Complainant lodged Claim which was repudiated on ground of incorrect statement and withholdment of material information committed by DLA. The point taken for determination is whether the DLA Knowingly suppressed the material information at the time of Proposal for insurance on 25.10.2002. Documents perused are MAC & COHT. It is observed that both MAC & COHT does not indicate the duration of disease prior to inception of Policy. As regards the h/o past ailment noted in a certificate, it is observed that such common diseases cannot be taken as valid reason for repudiation, particularly in the light of judicial pronouncements in such similar cases. Cases referred are [1 1998 CPJ 45 (NC)], [1986-99 Consumer 1119 (NS)], [2 CCJ 4 (564)], [1 (1991) acc 411(DB)] etc. Held that Respondent could not prove that the DLA took treatment for any serious disorder in health prior to Proposal and also the same was within the knowledge of DLA. Respondent to pay SA with 8% simple interest in all the Policies from the date after expiry of 2 months of compliance.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0247

Smt. Khatunnisa S. Ansari

Vs.

Life Insurance Corporation of India

Award Dated 31.1.2005

Husband of the Complainant proposed for insurance on 3-12-2002. He died on 12-12-2002. Proposal was underwritten on 16-12-2002. Claim intimation made by the Complainant on 6-1-2003. Because of unconcluded Contract, Claim repudiated. Examined the case with evidence adduced by the Respondent to ascertain whether the Contract was an unconcluded Contract with reference to the necessary requirements such as Subject Matter, offer, Consideration and Acceptance which are the essential parts to be completed in all aspects for conclusion of a Contract. It is observed that as death occurred on 12-12-2002, the subject matter (life to be covered) ceased to exist on 16-12-2002 and the underwriting done on 16-12-2002 was simply because intimation of death was given only on 6-1-2003. Judicial pronouncements in decided cases like [II (1993) CPJ 146 (NC)] and [I (1993) CPJ 128 (NC)] were also referred. Non-payment of Claim upheld.

Ahmedabad Ombudsman Centre

Case No. 21 - 001 - 0223

Smt. Nathiben M. Khant

Vs.

Life Insurance Corporation of India

Award Dated 31.1.2005

Husband of the Complainant was a Policy Holder of LIC. He died due to Pulmonary Tuberculosis. Claim lodged by the Complainant was repudiated on the ground of incorrect statement and withholding of correct information committed by DLA. Documents and submissions perused. It is observed from the certificate dated 20-9-02 that the DLA was under treatment of Cottage Hospital for Pulmonary Tuberculosis from June 1999 to November 1999. Further observed that the DLA's answer to specific question relating to past history was in negative. Suppression of facts and breach of Utmost Good Faith established. Repudiation upheld.

Ahmedabad Ombudsman Centre
Case No. LIC / 2 / 159
Smt. Pravinaben B. Shah
Vs.
Life Insurance Corporation of India

Award Dated 8.2.2005

Complainant, wife of DLA. The Claim Lodged by her was repudiated under Clause-6 of Policy Conditions. Issues examined are whether the repudiation was as per Policy conditions as well as the suicide of the LA could be proved by evidences. Documents perused. It is observed that the cause of death has been indicated in the final Police Report as suicide by drowning in Sea. The motivation behind the suicide is indicated as damage of shop by earthquake and subsequent recession in business. Repudiation under Clause - 6 upheld. Policy No. 813862314.

Ahmedabad Ombudsman Centre
Case No. LIC / 2 / 147
Smt. Sajanba N. Kheradia
Vs.
Life Insurance Corporation of India

Award Dated 8.2.2005

On the death of LA, the Complainant lodged Claim for Policy benefits which was repudiated on the ground of non-disclosure of material facts with regard to Liver Cancer suffered by the DLA one month earlier to the Proposal dated 30.1.2002. Documents and submissions perused. It is observed that in MAC issued from H.J. Doshi Hospital the duration of Liver Cancer has been mentioned as 4 months prior to the date of death of DLA on 18.8.2002. The COHT issued by N.P. Cancer Hospital has been mentioned only the date of admission in the Hospital on 10.8.2002 and the COHT was not filled-up completely. Therefore, both the certificates are not supportive to corroborate the Respondent's contention in the repudiation letter. Another document examined was a letter from one Dr. Vipul Desai. It is observed that the contents in the said letter is only probabilistic, but not assertive and hence opined that such probabilistic statement cannot be a valid document for repudiation of a death Claim. Further observed that the investigation done by a Senior Officer of the Respondent Company also could not come out with any adverse conclusion with regard to genuineness of the Claim. Further, the DAL had underwent full medical Tests and a complete medical report from a Senior Doctor in the panel of Respondent was submitted and the Proposal was accepted on OR Already Decided case in the matter of LIC Vs G.M. Channabasamma 1(1991) ACC 411 (DB) also referred. Respondent to pay Rs. 5,00,000/- along with 8% simple interest. Policy No. 813023235.

Ahmedabad Ombudsman Centre
Case No. LIC / 2 / 158
Smt. Kokilaben R. Barot
Vs.

Life Insurance Corporation of India

Award Dated 22.2.2005

After the death of LA, his wife lodged Claim With the Respondent for Policy benefits. On the ground of non-disclosure of sick leave taken by the DLA with respect to certain diseases alleged to have been suffering prior to the Proposal for insurance, Respondent denied liability. They Claimed to have indisputable proof to establish suppression of fact and mis-statement based on COHTs issued by Dr. J.D. Shah, Dr. C. C. Kalaria and Dr. Y. R. Joshi. Documents and submissions perused. It is observed from these COHTs that the Doctors in all these Certificates only advised Rest putting question marks against the diseases mentioned and there was nothing to prove that any treatment was given nor any Tests for diagnostic purpose were conducted. Hence, all these certificates served to be as supportive documents for availing medical leave. Further observed that the in-house investigation conducted by the Respondent also couldnot bring out any evidence of suppression of fact or mis-statement which ultimately recommended to treat the Claim as genuine. Decided cases in the matter of LIC Vs Sanjeev Mahendralal Shah [I (1998) CPJ 45 (NC)], LIC Vs. Paramjit Kaur Gill [III (1997) CPJ 35] and Nirmala soni Vs. LIC & Others (2004 CCJ 217) were also referred. Respondent to pay Rs. 314600/- alongwith 8% simple interest to the Complainant. Policy No. 851198951.

**Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 24 - 202
Smt. Sarojbala Behera
Vs.
Life Insurance Corporation of India**

Award Dated 01.11.2004

Happened that Late Surath Chandra Behera of Vill. Damodarpur P. O. Kantapada, Dt. Cuttack had obtained a Nav Prabhat Plan without Profit under Table & Term 137-15 bearing Policy No. 583445223 from Cuttack Dist. Branch of LIC of India, Cuttack Division for a Sum Assured of Rs. 1,50,000/- with Qly. mode of payment nominating the Complainant as beneficiary in the event of his death. As ill luck would have it, he died on 12.1.2002. LIC of India repudiated the claim on the ground of suppression of material fact.

Complained that LIC repudiated the claim on flimsy ground i.e. availing of Sick leave before taking the Policy. Actually the deceased was not suffering from any serious disease. As he no other leave to his credit he availed Sick leave.

Countered by LIC that the deceased Life Assured had not only availed of medical leave before taking the policy but also had taken reimbursement of medical bills by submitting prescriptions of the doctor & medical bills etc.

Observed that the Life Assured was working as PA (BCR), Head Post Office, Rayagada. The Sr. Superintendent of Post Offices, Koraput Division in his letter No. E-15-13/00-01 dtd. 27.10.04 has submitted Essential Certificates, Prescription etc. produced by the deceased life assured for availing of medical bills reimbursement, from which it appears that he was being treated by Dr. N. Dash, Medicine Specialist, D. H. H. Rayagada from 27.8.99 to 16.12.99 for hypertension & I. H. D. He mooted the proposal on 18.3.2000 declaring that he had no pre-existing disease and was in good state of health though in fact he

was suffering from heart disease and died of heart disease about a year there after. Evidently he obtained policy by misrepresentation.

Held that LIC was justified in repudiating the Claim. The complaint was dismissed without any relief.

**Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 21 - 141
Smt. Tofani Behera**

Vs.
Life Insurance Corporation of India

Award Dated 08.12.2004

Happened that Late Krushna Chandra Behera having Policy No. 584163098 with date of commencement 26.11.2001, Table & Term 14-25, Mode-Qly, for an assured sum of Rs. 20,000/- nominated the complainant Smt. Tofani Behera as the beneficiary in the event of his death. The policy lapsed due to non payment of premium from Feb. 2002 & it was revived on 1.2.2003 on payment of arrears premium from Feb. 02 to Nov. 02 alongwith interest by the deceased life assured. The Assured died of suspected malaria on 3.2.2003. On receipt of the claim form and supporting documents, the Insurer repudiated the claim on the ground interalia that the Assured had suppressed material facts relating to pre-existing disease in between the period from submission of Personal Statement regarding health in form No. 680 & revival of Policy on 1.2.2003.

Complained that the deceased life assured was not suffering from any disease prior to revival of the policy.

Countered by LIC that the deceased Life Assured was under treatment of Dr. R. K. Panda, Asst. Surgeon, SCB Medical College & Hospital, Cuttack from 25.1.2003 to 28.01.2003 for fever with rigor chill & vomiting who has mentioned the same in claim form "B". Hence the deceased had suppressed material facts relating to pre-existing disease.

Observed that the deceased life assured having declared to information any change in his general health between the date of declaration in P.S.R.H. & date of revival, committed the breach of declaration by not informing the Insurer that he had undergone medical treatment for fever with rigor and chill and vomiting from 25.1.2003 to 28.1.2003.

Held that the repudiation of the death claim by the Insurer for suppression of material facts relating to pre-existing disease can not be faulted in any score.

Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 21 - 152
Shri Pravat Biswal

Vs.
Life Insurance Corporation of India

Award Dated 20.1.2005

Happened that deceased life assured Tilotama Biswal had obtained a 25 year Jeevan Sanchay plan without profits bearing Policy No. 570637125 from Berhampur Branch II of Life Insurance Corporation of India on 28.02.2002 for an assured sum of Rs. 1,00,000/- with yearly mode of payment nominating Shri Pravat Biswal, the complainant as beneficiary (nominee) in the event of her death. Unfortunately the assured died during currency of the policy on 1.5.2002. The complainant submitted all the requirements to the insurer in February 2003. The Insurer repudiated the claim on the ground interalia that the assured had suppressed material facts relating to pre-existing disease and fraudulently mentioned her occupation as grocer through she had no income of her own.

Complained that the assured had no pre-existing disease. His wife died due to Cancer infarction. Insurer's plea about his wife suffering from Cancer is totally false and fabricated. The Complainant candidly admitted that the grocery shop in question belongs to him and the assured at times was transacting business in the shop.

Countered by LIC that the assured was not a self employed woman and she was suffering from cancer for one and half years before her death as evidenced from the written statement of her father obtained by the investigating officer during course of enquiry.

Observed that the written statement allegedly made by father of the assured before the investigating officer of the insurer on 12.10.2003 to the effect that the assured was suffering from cancer for one and half years for which she was treated at different hospitals for 3 months and ultimately succumbed to the disease, cuts no ice as the insurer has not

produced the father of the assured to substantiate the facts stated in the alleged statement. As stated by the complainant the assured had no grocery shop of her own and as such was not a self employed woman. Admittedly husband of the assured was not holding any insurance at the relevant time . The policy issued on the statement of the assured that she was self employed woman carrying on business in grocery, has been produced false as per the admission of her husband (the complainant.) It thus appears the assured had managed to obtain the policy with false declaration that she was a self employed woman.

Held that the repudiation can not be faulted on any score.

Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 24 - 216
Ms. Mita Chhinchani
Vs.
Life Insurance Corporation of India

Award Dated 21.01.2005

Happened that Late Smt. Ranjani Chinchani of Bijipur Tank Road, Berhampur, Dt. Ganjam had obtained a policy bearing No. 570444985 from the Career Agents Branch of Life Insurance Corporation of India on 28.1.2003 for an assured sum of Rs. 1,00,000/- Table & Term 14 - 21 & mode of payment of premium yearly. Unfortunately she died on 13.4.2003. Smt. Mita Chhinchani, the nominee submitted required documents in December 03. As the insurer sat over the matter, the complainant moved this forum for redressal. The insurer repudiated the claim pendente lite on the ground inter alia that the insured had intentionally suppressed material facts relating to her age and income while mooted the proposal.

Complained that the insurer has made inordinate delay in settling the death claim. Their contention of suppression of material facts regarding age and income of her mother is not correct.

Countered by LIC that school leaving certificate submitted by the assured at the time of proposal is forged one and she had understated her age by 12 years. She was also not a self employed woman. As her husband had nil insurance, she was not insurable.

Observed that the insured had produced a school leaving certificate allegedly issued by Headmaster, Serango High School, Gajapati on 20.8.73, where-in her date of birth is stated as 17.8.61. The headmaster of the school in his letter No. 44 dt. 23.3.04 has informed that no transfer certificate dtd. 20.8.73 was issued in favour of the insured. The investigation report of B.M., LIC Parlakhemundi insurer reveals that Gajapati district was not formed in the year 1973. It is thus manifest that the S. L. C. Produced in proof of the age is a forged one. The insurer has produced the voter's list for the year 2004 (S18, Orissa) of Bijipur Naidu Sahi in Berhampur municipality published on 1.3.2004, wherein age of the insured has been stated as 54. In absence of any standard age proof as provided in the insurer's underwriting, the age stated in the voter list is to be accepted as non standard age proof. It is therefore held that at the time of submission of the proposal the insured was 53 years of age. There is a rider in the insurer's underwriting that in case of non standard age proof maximum age at entry will not exceed 50 years. Had the insured not suppressed material facts relating to her actual age by producing a forged S. L. C. the policy under Table & Term 14 - 21 would not have been issued in her favour. Secondly in the proposal form the insured had stated tailoring and running parlour as her occupation. The complainant has candidly admitted that the insured was neither running a beauty parlour nor was a tailor but working in a parlour. She drew a blank when asked to name the beauty parlour and its owner. Evidently therefore insured does not come under category of self employed woman. Admittedly, the husband of the insured had no insurance so as to make her eligible for holding the policy.

Held that the repudiation action of the insurer can not be faulted on any score.

Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 24 - 234
Shri Prakash Kumar Sahoo
Vs.
Life Insurance Corporation of India

Award Dated 27.01.2005

Happened that Shri Bula Sahoo had obtained a life insurance Policy on 15.11.1988 bearing No. 580216816 under Table & Term 73-12 for an assured sum of Rs. 30000/- from Cuttack Dist branch of Life Insurance Corporation of India nominating his wife Smt. Santi Sahoo as the beneficiary in the event of his death. Unfortunately, the life assured died on 3.11.90. His widow (the nominee) gave information of his death & lodged claim in prescribed form. On 30.3.93 the Insurer repudiated the claim on the ground inter alia that the policy had lapsed due to non - payment of premium and the assured while reviving the lapsed policy had suppressed material facts relating to preexisting disease. The nominee died in the meantime. On 11.3.04 the complainant (son of the deceased) made a representation to the insurer for payment of death claim to the legal heir of both Assured & Nominee. But the Insurer stood by the repudiation for which the Complainant moved this forum for redressal.

Complained that he was not aware of the repudiation. Since the claim lodged by her mother was not settled by the Insurer during her life time, he made a representation to the Insurer on 11.3.2004.

Countered by LIC that the Policy had lapsed without acquiring Paid-up value for non payment of premium on 15.11.89 & it was revived on 4.10.90 on the strength of Personal Statement regarding health. The assured, who was then suffering from hepatic encephalopathy died of it one month after revival of the policy. The assured had deliberately suppressed the material facts relating to pre-existing disease while furnishing personal declaration of health for reviving the policy.

Observed that the repudiation letter was issued to the nominee on 30.3.93. It is stated by the insurer that no representation from nominee was received thereafter. The complainant has not produced any communication made by the nominee to the insurer after repudiation. The only document produced by him is his representation dt. 11.03.04. The complainant is not a minor. He drew a blank when asked why he remained silent for about 11 years. Three years period of limitation is prescribed under Article 44(a) of the limitation Act 1963 for filing a suit relating to contract on policy of insurance. In the the present case representation having been made 11 years after repudiation of death claim, the complaint is hopelessly barred by law of limitation.

Held that repudiation action by the insurer is correct and proper and complaint is disposed of without any relief.

Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 21 - 142
Smt. Jyotshna Sahoo
Vs.
Life Insurance Corporation of India

Award Dated 22.02.2005

Happened that Late Purna Chandra Sahoo had taken a Life Insurance policy bearing no. 583281784 from Bhubaneswar Branch -I on 28.7.99 under Table & term 75-20 for an assured sum of Rs. 25,000/- with Qly mode of payment nominating his wife Smt. Jyotshna Sahoo as beneficiary (nominee) in the event of his death. The policy lapsed w.e.f. January, 2001 but it was revived on 28.7.2001 on payment of arrears premium with interest and duly executed personal statement regarding health form.

Unfortunately, the Assured died on 12.1.2002 out of Diabetic Mellitus, Chronic Renal Failure and Cardio Respiratory Failure . The claim was repudiated by the Insurer on 15.9.03 on the ground that the Assured had suppressed material facts relating to pre-existing disease in the Personal Statement regarding Health while reviving the policy.

Complained that the Assured was not suffering from any disease at the time of revival of policy and pointed out certain discrepancies in claim form B1 relating to date of admission of the Assured to the hospital.

Countered by LIC that the Assured was suffering from Diabetic Mellitus for last 7 1/2 years and was taking treatment as an outpatient in S.C.B. Medical College, Cuttack vide O.P.D. No. 10185 dated 18.9.99.

Observed that the Assured was admitted in S.C.B. Medical College & Hospital on 4.1.2002 for treatment of Diabetic Mellitus & CRF. The copy of BHT received from the hospital reveals 7 1/2 years history of Diabetic Mellitus and treatment as an outpatient since 18.9.1999. It is evident that the Assured had the Knowledge that he was suffering from Diabetic Mellitus by the time of revival, which he did not disclose in personal Statement Regarding Health form. The repudiation therefore, can not be dubbed as unjust.

The assured was in good health at the time of mooting proposal. Unfortunately he came under grip of Diabetic Mellitus by the time of revival. He was a poor rustic person & has left behind his widow & three minor children.

Held that this is a fit case to be considered under ex-gratia. Recommended an ex-gratia award of Rs. 10,000/- in favour of the Complainant & directed the Insurer to make payment within 15 days from the date of receipt of consent letter.

Bhubaneswar Ombudsman Centre
Case No. I.O.O / BBSR / 21 - 149
Smt. Chinmayee Mishra
Vs.
Life Insurance Corporation of India

Award Dated 17.03.2005

Happened that deceased life assured Rabindra Kumar Mishra was a policy holder under Cuttack Branch of LIC of India, Cuttack Division, owning the policy bearing No. 584165238, which was commenced on 19.12.2001 for an assured sum of Rs. 5,00,000/- under Table & Term 112 - 25 (16) with Hly mode of payment. The Complainant was nominee under the policy. The assured died on 15.3.2003 during currency of the policy due to Cancer. The death claim lodged by the nominee (Complainant) was repudiated by the Insurer on 27.11.2003 on the ground inter alia that the assured while mooting the proposal had suppressed material facts relating to pre-existing disease. Being aggrieved the complainant moved this forum for redressal.

Complained that the deceased assured was neither a smoker nor an alcoholic nor suffered from any such disease.

Countered by LIC that prior to obtaining the policy he was suffering from Asthama for 3 years. He was also a Chronic Smoker and alcohol consumer. These facts were mentioned in copy of BHT dtd. 29.5.2002 of TMH, Mumbai.

Observed that the Assured was treated in TMH, Mumbai vide BHT No. BS 08107 ward SPW "B" dtd. 29.5.2002 and it is mentioned in the said BHT that the Assured had 3 years history of Asthma and was also a Chronic Smoker and Alcohol consumer. According to Insurer's underwriting, a proposer with history of Asthma is required to submit various special reports viz. Asthma Questionnaire, X-Ray of Chest, CBC / ESR, SPQ 001 Part I and attending Physician's Report stating number of attacks per year with details of treatment. Non - disclosure of this Pre-existing disease amounts to suppression of material facts.

Held that repudiation action taken by the Insurer can not be faulted on any score.

Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 21 - 148
Smt. Jyotirmayee Singh Deo
Vs.

Life Insurance Corporation of India

Award Dated 16.03.2005

Happened that the deceased life assured Swaraj Singh Deo had obtained a 15 years Jeevan Surabhi Policy bearing No. 581371217 on 15.5.1995 from Nayagarh Branch for an assured sum of Rs. 50,000/- under SSS mode nominating his wife (the Complainant) as beneficiary (nominee) in the event of his death. As ill luck would have it the Assured died during currency of the policy on 22.10.1997. The Complainant submitted the claim forms to the Insurer and her claim was repudiated on the ground that the assured had suppressed material fact of pre-existing disease he was suffering from while mootting the proposal.

Complained that her husband was not suffering from any disease. She pleaded ignorance about the same and squarely laid blame on the agent.

Countered by LIC that the Assured was treated as an Indoor patient from 1.4.1995 to 3.4.1995 for Lungs Cancer in Meherbai Tata Memorial Hospital, Jamshedpur. This fact was not disclosed in the proposal.

Observed that the Assured submitted proposal form on 29.4.1995 stating therein that he was enjoying good health having no previous history of ailments. The discharge certificate dtd. 3.4.1995 of M. T. M. H., Jamshedpur reveals that the assured was treated in the hospital for CA Lungs (L). Evidently therefore he had suppressed material fact relating to pre-existing Disease.

Held that the repudiation action of the Insurer can not be faulted on any score.

Bhubaneswar Ombudsman Centre
Case No. I.O.O. / BBSR / 21 - 147
Smt. Chapalla Sahoo
Vs.

Life Insurance Corporation of India

Award Dated 18.03.2005

Happened that Late Bijoy Kumar Sahoo had obtained a Jeevan Shree Policy Table & Term 112 - 25 (16) from Cuttack Branch of the Life Insurance Corporation of India vide Policy No. 584166893 on 28.1.2002 for an assured sum of Rs. 5,00,000/- with yearly mode of payment nominating his niece as beneficiary in event of his death. As ill luck would have it, the life assured died during currency of the policy on 3.4.2003 out of Chronic Liver disease. The complainant lodged claim with the Insurer. The Insurer repudiated the claim on the ground interalia that the Assured while mootting the proposal for the Policy intentionally suppressed the material fact relating to his alcoholic habits. Being aggrieved, the Complainant moved this forum for redressal.

Complained that the deceased life assured was not taking alcohol. He died out of jaundice. The Insurer is not justified in repudiating the claim.

Countered by LIC that the Assured was a known alcoholic for 6 years and died out of Alcoholic Liver Disease. He had intentionally suppressed his alcoholic habits while filling the questionnaire in the proposal form.

Observed that the Assured was a known alcoholic for 6 years, which is established from the Medical papers. He was therefore addicted to alcohol much prior to making the proposal for policy, but intentionally gave negative reply to the Q. No. 11 (h) (i) of the

questionnaire in the proposal form. This amounts to suppression of material facts relating to alcoholism of the assured.

Held that the repudiation action taken by the Insurer can not be faulted on any score.

Chandigarh Ombudsman Centre
Case No. LIC / 138 / Chandigarh / Nangal / 24 - 05
Smt. Supari Devi
Vs.
Life Insurance Corporation of India

Award Dated 21.10.2004

Facts : Shri Dharam Chand purchased four policies under Salary Savings Scheme at different intervals during 1990 to 1993. He died on 26.8.94. His wife/ nominee Smt. Supari Devi lodged the claim with BO Nangal, which was not settled for many years on the plea that records had been misplaced. She filed a complaint in this office on 15.7.04.

Findings : It was confirmed that all four policies were in force on the date of death of policyholder. However, the claimant failed to submit requisite documents despite repeated reminders. Last reminder was reportedly sent on 8.2.96 to submit original death certificate and the policy bonds within a period of 10 days.

After receipt of a copy of complaint from this office on 20.7.04, the Divisional Office sought policy dockets and detailed report from the branch office to proceed further in the matter. The branch office informed that the basic record could not be traced, as it was destroyed in Sept 1990 during Mandal Commission agitation. However, original ledger sheets were sent to the DO. Claim papers were also collected from the claimant and the matter was under active consideration for payment.

Decision : Held that the claimant cannot be held responsible for misplacement or destruction of record. The insurer was liable to settle the claims. Directed to do so within a period of three weeks.

Chandigarh Ombudsman Centre
Case No. LIC / 208 / Chandigarh / Mandi Gobindgarh / 21 - 05
Smt. Harjeet Kaur
Vs.
Life Insurance Corporation of India

Award Dated 21.10.2004

Facts : Smt. Harjeet Kaur's husband Late Shri Gurdev Singh had taken a policy for sum assured of Rs. 1,00,000/- on 15.5.99 from B.O. Mandi Gobindgarh. It lapsed on 15.5.01 and was got revived on 30.3.02. The deceased life assured expired on 28.9.02. The claim lodged by his wife/nominee was repudiated on 28.2.03 on the ground that the LA had withheld material information at the time of revival of policy. She filed a complaint alleging that her claim was repudiated on flimsy grounds and that she was not aware of the sickness of her husband.

Findings : It was noted that the insurer repudiated the liability after due investigation, which revealed that DLA had availed of medical leave for 109 days during July 99 to November 2000 prior to revival of policy. This was further supported by the fact that he had submitted bills for reimbursement. It also transpired that he was a chronic alcoholic and suffered from liver disease for two years as per information given in form No. 3784 by the medical attendant. He failed to disclose this in DGH while applying for revival of policy on 30.3.02.

Decision : Held that the supportive evidence with the insurer was sufficient to warrant repudiation of the claim. Hence the complaint was dismissed.

Chandigarh Ombudsman Centre

Case No. LIC / 156 / Karnal / Kaithal / 24 - 05
Smt. Lalita Devi
Vs.
Life Insurance Corporation of India

Award Dated 2.11.2004

Facts : Shri Subhash Garg had purchased two Jeevan Mitra policies for sum assured of Rs. 3 and 5 lac for which proposals were submitted on 15.3.2003 and 31.03.2003 respectively. He expired on 2.7.03 in the All India Institute of Medical Sciences, New Delhi. The claim filed by his wife was repudiated on 4.9.04 on the ground of suppression of material information relating to his health at the time of purchase of insurance policies. She sought intervention of this office for getting the claim amount paid to her on the plea that the symptoms of illness viz. fever, breathlessness and vomiting were noticed only three days before admission in the hospital.

Findings : It was established on the basis of hospital record that DLA was admitted in Vikram Hospital, Kaithal on 13.5.03 with complaint of congestive heart failure (CHF) and dilated cardio myopathy (DCM) and was discharged on 27.5.03. He was also treated at AIIMS, from 27.6.03 to 2.7.03 and had reported history of Dyspnea for the past five months. He died in AIIMS on 2.7.03. As it was an early claim, investigations undertaken revealed that the DLA had been having problem since Feb 2003 i.e. prior to proposing for the policies and was aware of his sickness. As per the case history recorded in AIIMS at the time of his admission, he reportedly had fever and related symptoms in Feb 2003. The insurer contended that such ailments take a long time to reach the terminal stage. The cause of death in Form No. 3784 issued by AIIMS was stated to be high fever and heart problem. The history of disease was reported to be prior to the date of insurance.

Decision : Held that in view of suppression of material information relating to the state of health at the time of purchase of policies, repudiation of claim was in order. The complaint was, accordingly, dismissed.

Chandigarh Ombudsman Centre
Case No. LIC / 81 / Karnal / Sirsa / 21 - 05
Smt. Usha Devi
Vs.
Life Insurance Corporation of India

Award Dated 2.11.2004

Facts : Shri Shyam Lal purchased a policy for sum assured of Rs. 5 lacs on 28.5.02. He died on 2.4.03 within less than a year due to renal failure. His wife/nominee Smt. Usha Devi lodged the death claim which was repudiated on 17.4.04 on the ground that DLA had not disclosed material information relating to his renal problem.

Findings : The complainant contended that her husband was taken ill for 2-3 days only before his death and that he was never put on dialysis. However, investigation conducted by the Branch Manager, Mandi Dabwali revealed that DLA had been suffering from diabetes and renal failure for more than two and a half year. He had reportedly taken treatment at Bikaner and Ludhiana hospitals. As per certificate given by the treating doctor DLA had been under dialysis since January'02 and was suffering from renal failure and Type II D.M. As these ailments take long time to reach the terminal stage, it was obvious that DLA was suffering from the said disease prior to the purchase of policy. Copies of register with details of dates on which DLA was put on dialysis at Mohinder Singh Hospital, Bhatinda were also produced.

Decision : Held that having regard to the nature of ailment, the treatment taken by the DLA and the terminal stage it had reached, the obvious inference is that he must have been

suffering from the said ailment prior to taking the policy. The contention of the complainant that DLA was taken ill only 2-3 days before his death was falsified by the documentary evidence adduced by the insurer about treatment taken by him in Mohinder Singh Hospital, Bhatinda. Hence, the complaint was dismissed.

Chandigarh Ombudsman Centre
Case No. LIC / 201 / Jalandhar / Faridkot / 21 - 05
Smt. Gurmit Singh
Vs.
Life Insurance Corporation of India

Award Dated 2.11.2004

Facts : Shri Ajit Singh DLA took a policy for sum assured of Rs. one Lac on 28.3.2000 from Branch Office, Faridkot. He died on 8.3.03. Shri Gurmit Singh his nominee/son filed the claim. It was repudiated on the ground of concealment of material facts relating to the state of health of the deceased. Shri Gurmit Singh claimed that his father was not given to excessive drinking as was alleged. He consumed liquor only on special occasions and that too in moderate quantity. The agent was informed about it, but he felt that there was no need to mention the same in the proposal form. It was admitted that DLA was a diabetic for a year before his death and not for five years as alleged. It was claimed that he died of jaundice and not because of diabetes or excessive drinking.

Findings : The claim was repudiated on the basis of adverse medical history backed by documentary evidence. The contention of the complainant that DLA used to drink occasionally was not correct since it was reported in form No. 3784 that he was a chronic alcoholic for the last 15 years and diabetic for 5 years. The complainant admitted that his father died of jaundice, which was mainly caused by excessive drinking.

Decision : Held, that having regard to statement of the relatives of DLA in Shri Guru Gobind Singh Medical College and Hospital where he was treated and the diagnosis made by hospital authorities, it was evident that DLA was a chronic alcoholic and was suffering from diabetes and died of jaundice. The repudiation of claim for suppression of material information was, therefore, justified. The complaint was dismissed.

Chandigarh Ombudsman Centre
Case No. LIC / 227 / Jalandhar / Nawanshahr / 24 - 05
Smt. Anita Kumari
Vs.

Life Insurance Corporation of India

Award Dated 11.11.2004

Facts : Shri Narinder Singh paid initial deposit of Rs. 4096 on 3.7.03 at Branch Office, Nawanshahr against his proposal for a sum assured of Rs. 5 lacs under Table and Term 153-10. He died on 7.7.03. Smt. Amarjit Kaur, his nominee (wife) lodged the claim contending that the premium deposit had been paid. However, the claim was not entertained.

Findings : It was noted that the proposal No. 1352 was allotted by B.O. Nawanshahr on 3.7.03. However, special reports were called for and the proposal was sent to Divisional Office, Jalandhar for underwriting. The proposal could not be underwritten as fresh ECG, medical report and MHR were called for on 16.7.03 by DO Jalandhar. The proposer died before the contract could be completed. The proposal deposit was, therefore, refunded on 24.10.03 as the contract of risk was not complete due to non completion of additional requirements called for by the Divisional Office.

Decision : Held, that proposal deposit is merely an intent or an offer on behalf of the proposer to go in for a specified policy, the contract becomes effective after completion of

various formalities and allotment of policy number. Since, neither these formalities were completed nor policy number was allotted, it cannot be construed that the risk has been accepted by the insurer. The claim was thus not tenable.

Chandigarh Ombudsman Centre
Case No. LIC / 282 / Ludhiana / Ludhiana IV / 21 - 05
Shri Monu
Vs.
Life Insurance Corporation of India

Award Dated 31.12.2004

Facts : Shri Suresh Kumar had taken a policy for sum assured of Rs. 4 lacs on 28.1.02. He died on 20.4.02 in Mohan Dai Oswal Cancer Hospital, Ludhiana. His son/nominee Shri Pankaj Vig alias Monu lodged the claim, which was repudiated on 31.3.04 on the ground of concealment of material information regarding ailment of DLA before date of proposal.

Findings : Investigations revealed that the deceased life assured had remained admitted in the Mohan Dai Oswal Cancer Hospital from 12.1.02 to 15.1.02, on 17.1.02 and again from 15.2.02 to 16.2.02. He was diagnosed to be suffering from alcoholic liver disease and diabetes. He had earlier visited the hospital as an OPD patient on 9.1.02. He died in the same hospital on 20.4.02 and the cause of death was alcoholic liver disease. The complainant stated that the agent should have properly guided them about the required disclosures. Besides, the examining doctor should have detected the ailment.

Decision : Held that the complaint was devoid of any substance as there was irrefutable evidence with regard to the pre-existing nature of disease of DLA.

Chandigarh Ombudsman Centre
Case No. LIC / 286 / Ludhiana / CAB Ludhiana / 21 / 05
Smt. Dalbir Kaur
Vs.
Life Insurance Corporation of India

Award Dated 31.12.2004

Facts : Shri Summitar Singh took a policy for sum assured of Rs. 25000 for five years term and paid six half yearly premium instalments before his death on 31.10.03. The claim filed by his wife, Smt. Dalbir Kaur was repudiated on account of concealment of material information regarding the health of DLA. He reportedly suffered from heart disease and remained on medical leave for six days from 22.1.2000 to 27.1.2000. She contended that as the duration of leave was less than one week, it was not required to be disclosed. She further stated that if he had any malafide intention, he would have opted for a long term policy.

Findings : The DLA remained admitted in the CMC Hospital, Ludhiana from 22.1.00 to 27.1.00 and was diagnosed to be suffering from alcoholic liver disease (ALD). He was also suffering from Coronary Artery Disease (CAD) at the time of taking the policy but did not disclose it nor the fact of his admission in the hospital. As the policy had been in force for two years and 10 months only, investigation was conducted which revealed non disclosure of material information. The contention of the complainant that there was no intent to conceal material fact may be true and non disclosure may not have been willful. The policy was in force for almost three years and on completion of three year period, ordinarily the claim would have been payable.

Decision : Held that having regard to the facts of the case and the circumstances of the claimant, though the claim is not payable, but as a gesture of goodwill on humanitarian considerations the complainant be paid a sum equivalent to the premium deposited by way of ex-gratia payment.

Chandigarh Ombudsman Centre

Case No. LIC / 344 / Ludhiana / Ludhiana - I / 21 / 05
Shri Jatinder Khanna
Vs.
Life Insurance Corporation of India

Award Dated 24.01.05

Facts : Smt. Muskan Khanna took a policy for sum assured of Rs. 6 lacs on 31.03.03. She delivered a baby on 24.2.03 by caesarean operation. Subsequently, she developed jaundice and remained under treatment of Dr. Pritpal Singh, Medical Superintendent, Jeevan Hospital, Ludhiana and died on 6.7.03 due to some complications. The death claim filed by her husband/nominee Shri Jatinder Khanna was repudiated on 19.2.04 on the ground that the deceased had made false statement in the proposal form as she failed to disclose about her caesarean operation and treatment taken in the hospital from 23.2.03 to 4.3.03. It was asserted that pregnancy was not an ailment, rather a natural process of childbirth and its disclosure may not be necessary. It was however, admitted that she had delivered the baby on 23.02.03 through caesarean operation. The complainant alleged that the proposal forms were changed cleverly by some official to cause him damage, as the signature of the agent, his wife and doctor do not appear to be genuine.

Findings : In reply to question 13 (a) of the proposal form, DLA had stated that her last delivery was on 23.02.03 while the date of last menstruation was indicated to be 28.03.03. The representative of insurer stated that it was medically incorrect. Further she failed to inform that she had undergone a caesarean operation on 23.2.03. As per rules of the Corporation, she was uninsurable on account of delivery through caesarean operation on 23.2.03 and had to wait for three months. The complainant urged that DLA had filled up the proposal form on 31.3.03. She developed jaundice on 18.6.03, which led to her death on 6.7.03. The allegation that the state of health of DLA was not good at the time she proposed for the policy, was unfounded as inference to this effect has been drawn on the basis of report received from Chopra Nursing Home where she remained admitted from 23.2.03 to 4.3.03 for delivering a baby. Admission in the hospital for delivery of baby cannot be construed to be an illness. In the proposal form, the date of childbirth and the fact that it was a stillborn child was duly disclosed. She was not admitted in any hospital for treatment of any serious disease other than for delivery. However, information with regard to the baby having been delivered through caesarean operation was inadvertently not given. Besides, the proposal form was filled up by the agent.

Decision : It is not disputed that DLA had undergone a caesarean operation. Had this been disclosed, she would not have been eligible for insurance for sometime and would have been required to produce a report from a gynaecologist in Form No. 3341 to determine her suitability for insurance. Held that as DLA had not disclosed these facts in the proposal form, the decision to repudiate the claim was in order.

Chandigarh Ombudsman Centre
Case No. LIC / 229 / Shimla / Nahan / 21 / 05
Shri Vinod Kumar Gupta
Vs.

Life Insurance Corporation of India

Award Dated 31.01.05

Facts : Late Smt. Asha Gupta wife of Sh. Vinod Kumar Gupta purchased two policies for sum assured of Rs. One Lac and Rs. 40,000 each from the branch office Nahan. She reportedly slipped in her house on 21.9.03 and became unconscious. She was operated upon for brain haemorrhage on 22.9.03 at PGI, Chandigarh where she remained admitted upto 17.12.03. The Medical Board, Nahan issued a Permanent Disability Certificate on 31.1.04. Her husband applied to the Branch Manager, Nahan for PDB on 9.2.04, but the claim remained unsettled. In the meantime, she expired on 24.4.04. Her husband lodged

the death claim. He was paid basic sum assured in respect of both the policies, but liability for accident benefit was disowned.

Finding : After the complainant submitted Permanent Disability Certificate, he was asked to give further proof of accident namely FIR and doctor's certificate about the nature of disability through accident. Before these requirements could be complied with, LA died. Permanent Disability Benefit is admissible only if disability is caused as a result of an accident. Accidental injuries independent of all other causes which result within 180 days in irrecoverable loss of sight of both eyes or in the amputation of both hands at or above the wrist or in the amputation of both feet at or above ankles or in the amputation of one hand at or above the wrist and one foot at or above the ankle are deemed to constitute such a disability. The complainant failed to establish that the disability was the result of accident. The DLA was suffering from hypertension and diabetes as per the medical history recorded in the PGI and the fall could have been the result of these diseases. Besides, for admissibility of DAB, death should have occurred within 180 days from the date of incident solely as a result of accident. The case was also referred to the Zonal Medical Referee, who opined that in view of her illness SAH+LMCA aneurysm and hypertension, loss of consciousness could be due to the neurological complications leading to subsequent fall.

Decision : Held that since death had occurred after more than 180 days of the date of supposed accident, the disability benefits would otherwise have also not been admissible. Besides, it was established that she was suffering from hypertension and diabetes for two years. Her slipping in the kitchen was in all probability due to brain haemorrhage and not the vice versa. The complaint was, therefore, devoid of substance and hence dismissed.

Chandigarh Ombudsman Centre
Case No. LIC / 335 / Delhi - II / Faridabad / 24 / 05
Shri Sanjeev Mehra
Vs.
Life Insurance Corporation of India

Award Dated 07.02.05

Facts : Shri Sanjeev Mehra's father who died on 7.2.04, had taken on 25.03.92 a Jeevan Akshay policy from branch office, Faridabad. He being the nominee filed the claim with the Branch Office on 28.4.04. He furnished relevant documents, but the claim was not settled till 18.11.04 when he lodged a complaint in this office.

Findings : Manager (CRM) informed vide letter dated 27.1.05, that payment of Rs. 40,400 towards death claim was made to the nominee vide cheque dated 24.01.05. It was noted that the complainant had completed all formalities for death claim by 28.04.04.

Decision : Despite the fact that the death claim was not disputed, the settlement was not made within 30 days of submission of requisite documents by the complainant. Held that insurer was liable to pay interest @ 7% for the period from 28.05.04 until 24.01.05.

Chandigarh Ombudsman Centre
Case No. LIC / 70 / Chd / Manimajra / 21 / 05
Smt. Mamta Manu
Vs.
Life Insurance Corporation of India

Award Dated 21.03.05

Facts : Shri Mandeep Sharma had taken two policies for SA of Rs. 25,000/- and Rs. 5,00,000/- on 15.9.97 and 14.10.02 respectively. The policy for SA of Rs. 25,000/- had lapsed but was revived on 31.7.02. The DLA died on 5.2.2003. Smt. Mamta Manu, his wife/nominee filed the claim. The claim in respect of policy for SA of Rs. five lacs was repudiated on the ground of concealment of material fact while purchasing the policy while the policy for SA of Rs. 25000 was declared void on the same ground.

Findings : The complainant asserted that her husband was a healthy person and had honestly stated in the proposal forms that he smoked and took liquor occasionally. Besides, doctors authorized by LIC had examined him, to whom intake of liquor and tobacco was truthfully disclosed. He died of jaundice on 5.2.2003 which might have been caused by food poisoning. The ailment was not in the knowledge of her husband or any other family member. Sr. Divisional Manager, Chandigarh informed that the claim was repudiated on justifiable grounds, as LA suffered from ALD and was also a habitual drinker and he deliberately concealed material facts regarding his health. If these were disclosed correctly, the proposal would have been accepted only after calling for certain special requirements. It was further stated that no medical examination was conducted. The proposer was required to answer questions contained in the personal statement form. The investigation officer also confirmed that DLA was a habitual drinker for the last 10 years. The death report issued by hospital authorities Sec- 32, Chandigarh in form no. 3816 corroborated that the insured had died due to ALD and was a habitual drunkard for the last 10 years. The Zonal Claims Review Committee also rejected the representation of the complainant.

Decision : Held that from the perusal of hospital report in form no. 3816 and the death report, it was abundantly clear that the death was caused by alcoholic liver disease. The material fact that deceased life assured was given to excessive drinking was not disclosed at the time of purchase of policy which renders the policies a nullity. The repudiation of claim by the insurer was, therefore, held to be in order.

Chandigarh Ombudsman Centre
Case No. LIC / 410 / Ludhiana / Ludhiana - I / 24 / 05
Smt. Parveen Dawar
Vs.
Life Insurance Corporation of India

Award Dated 28.03.05

Facts : Shri Subhash Rawat issued two cheques for Rs. 7875 and Rs.6000 as deposit for purchase of policies. The amount was credited to LIC account on 03.06.02. However, policy bonds were not issued. He died on 13.07.02. Smt. Praveen, his widow, filed an application for settlement of claim. She pleaded that the required proposal forms filled up by the agent were also signed by her husband. However, neither policies nor receipts were issued. Her application was not entertained for want of contract due to non submission of proposal form.

Findings : Sr. Divisional Manager, Ludhiana confirmed that both the cheques were credited in LIC account on 3.6.2002. However, proposal forms were not submitted. The depositor had died on 13.7.02, but no intimation was given to the office. The consideration amount was deposited through the agent Shri B.P. Sood, who confirmed non receipt of proposal forms from LA despite repeated reminders. It was stated that the deposit amount would be refunded to class-I legal heirs of Shri Rawat on completion of formalities. The death claim was not payable in view of the fact that insurance contract had not been finalized.

On behalf of complainant it was stated that two policies were proposed by late Shri Subhash Dawar for SA of Rs. 10 lacs. After getting the cheques, the agent did not bother to contact him again to get the proposal forms filled up. The agent stated in his report that he tried to contact the proposer to have the proposal forms filled up. But when he was informed by late Shri Subhash Dawar that he was having heart problem and was being treated at DMC, he refused the proposal and advised him to get the refund from office. Besides, the claim was lodged two years after the death of Shri Subhash Dawar.

Decision : Held that it was evident that, for whatever reasons, contract between the parties was not effected. Therefore, the basis for admitting the claim does not exist. The complainant also failed to explain why the claim was lodged after two years and intimation

about his death was not given earlier. The obvious inference is that it is an after thought. Hence the complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2247 / 2004 - 05
Smt. M. Jeramma
Vs.

Life Insurance Corporation of India

Award Dated 15.10.2004

Late S. Michealdas, a fisherman, took a policy of insurance on his life with LIC for a sum assured of Rs. 53,000/- on 15.11.2000 and nominated his wife Smt. M. Jeramma thereunder. The policy lapsed due to non-payment of premium due from 15.5.2002. The premium under the policy was paid to LIC at 11.17 hours on 6.8.2002 along with late fee. The life assured went missing after he set out for fishing in a boat with other fisherman at 7.00 AM on 6.8.2002 when the boat capsized 30 meters from the seashore and the life assured was injured. The fellow fisherman made good escape and the life assured's body was washed ashore on 10.8.2002 at 12.45 PM in a highly decomposed state. LIC repudiated the claim on the plea that the premium due was paid after the death of the life assured, as otherwise policy was in a lapsed condition and nothing was payable thereunder. LIC however refunded the premium of Rs. 896/- paid after the death of the life assured. The complainant has approached Zonal Claims Review Committee who upheld the repudiation decision.

The parties to the dispute were heard and the records of the case perused. F.I.R., Policy Inquest Report, Death Certificate and Postmortem report did not throw any light on the time of death. The Post - Mortem Report stated that the death was due to drowning, that there were cut injuries on his body and the body was in a highly decomposed state. The Death Certificate recorded the date of death as 6.8.2002, on which the Insurer greatly relied upon to repudiate surmising that the life assured met with instantaneous death on capsizing of the boat. But the exact time of death was not ascertainable from the Death Certificate. It was probable that since the life assured was a fisherman by profession, he could have tried to save himself and could have been alive even after his injuries. It was also probable that the life assured met with instantaneous death on drowning since the life assured reportedly suffered injuries when the boat capsized. Therefore the claim of the complainant for full sum assured could not be considered and LIC was directed to pay the basic sum assured of Rs. 53,000/- on Ex-gratia basis.

The complaint was partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2208 / 2004 - 05
Shri R. Durai
Vs.

Life Insurance Corporation of India

Award Dated 15.10.2004

Late D. Jayalakshmi took a LIC policy for a sum assured of Rs. 50,000/- on 15.2.2003 and nominated her husband Shri R. Durai thereunder. The life assured died on 29.7.2003 due to Hypertension and cardiac ailments. The claim was repudiated for suppression of material information relating to health and the same was upheld by the Zonal Claims Review Committee, leading to the complaint before this Forum.

The parties to the dispute were heard and the records of the case perused. The attending Doctor certified that he had been treating the life assured since one year before taking the policy for several heart ailments. An Echocardiogram report although taken post-proposal also confirmed her heart ailments. The complainant himself admitted during hearing that his wife used to visit her native place evidencing that she was using such visits to consult

the Doctor and undergo treatment. The cause of death was also the same heart ailments for which she underwent treatment. Section 45 of the Insurance Act was not applicable and it was held that the insurer has proved material suppression. The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2198 / 2004 - 05
Shri C. Chellappan
Vs.
Life Insurance Corporation of India

Award Dated 15.10.2004

Late C. Ramu took a LIC policy for a sum assured of Rs. 50,000/- as per his proposal dated 30.3.1999 and the risk under the policy was dated back by LIC to commence from 20.4.1998 as per his request. The policy lapsed due to non-payment of premium and the same was revived on 14.1.2003. He also took another policy for a sum of Rs. 1,00,000/- under Bima Kiran plan, a high risk policy. The assured died on 27.4.2003 and the cause of death was Suicide by hanging. LIC repudiated the claim under both the policies for furnishing incorrect statement relating to his occupation and that he was unemployed on the date of signing the proposals. LIC had however settled claims under 7 earlier policies of the life assured. The repudiation decision was also upheld by the Zonal Claims Review Committee and hence the present complaint.

The parties to the dispute were heard and the records of the case perused. The letters obtained from the employers of the deceased, produced before this Forum, did evidence that the life assured had quit their jobs and was not in their employment establishing falsity of information furnished by the life assured in his proposals for insurance with regard to his employment. However the same was not viewed very material since the life assured was an engineering graduate who had the potential to get employed. Therefore it was decided to allow the claim under the first policy. However, since the Agent was the father of the life assured himself who was a leading Agent of LIC and also the beneficiary under both the policies, LIC was directed to take action against him for his misrepresentation about his son's employment in his confidential report.

The life assured did not mention in his proposal for second policy that his earlier policy was in a lapsed condition. Had that information been furnished LIC would not have undertaken to grant that policy and instead would have advised the life assured to revive his earlier policy before applying for fresh insurance. That there was deliberate suppression of material information leading to repudiation since opportunity to properly assess risk was denied to LIC was held valid. Here, the Agent was the mother of the life assured who has misrepresented in her confidential report that his son's previous policy was in force, though records evidenced that the previous policy was in a lapsed condition. LIC was advised to take action against her for her misrepresentation.

On the whole, it was held that both the Agents (who were the father and mother of life assured and the father being the beneficiary under both the policies) were guilty of gross breach of good faith reposed on them by LIC and LIC was directed to take stringent action against them for their misrepresentations. The Claim under the first policy was allowed and the complaint under the subsequent policy was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2263 / 2004 - 05
Smt. K. Binniammal
Vs.
Life Insurance Corporation of India

Award Dated 19.10.2004

Late G. Thangam insured his life with LIC for a sum assured of Rs. 1,00,000/- on 14.2.2000 and nominated his mother Smt. Binniammal thereunder. The policy lapsed due to non-payment of premium with effect from 14.2.2001 and was revived on 24.9.2001 on the strength of a Declaration of Good Health. The assured died on 6.11.2001 and the cause of death was Hypertension and Chronic Renal Failure. LIC repudiated the claim stating that the life assured suffered from Chronic Renal Failure before revival but did not disclose the same at the time of revival. The repudiation decision was upheld by the Zonal Claims Review Committee also and hence the present complaint.

The parties to the dispute were heard and the records of the case perused. The hospital records produced by the Insurer did evidence that the life assured underwent treatment as an inpatient, interalia, for Hypertension and Chronic Renal Failure in a reputed hospital during pre-revival period. The hospital also advised the life assured to go in for renal transplant early and till then to be on Heamodialysis. twice a week. The death was also due to the same cause. Evidently the Declaration of Good Health was false on whose strength the Insurer revived the policy. On the basis of medical evidence adduced by the Insurer, it was held that there was deliberate suppression of material information with full knowledge of the same at the time of revival, thus satisfying the stipulations of Section 45 of the Insurance Act, 1938.

The insurer's decision to declare revival null and void was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2285 / 2004 - 05
Shri M. Subramaniam
Vs.
Life Insurance Corporation of India

Award Dated 20.10.2004

Late S. Sulochana insured her life with LIC for a sum assured of Rs. 1,00,000/- with effect from 28.4.2003 and nominated her husband Shri M. Subramaniam thereunder. She died on 23.8.2003 due to Cirrhosis of Liver with Portal Hypertension and Oesophagal Varices. LIC repudiated the claim on ground that there was suppression of material information relating to health. The repudiation decision was upheld by the Zonal Claims Review Committee also and hence the present complaint.

The parties to the dispute were heard and the records of the case perused. The hospital records produced by the Insurer proved that the life assured underwent hospitalisation and treatment as an inpatient, as far back as 1998 for Cirrhosis of Liver, etc. and she had reportedly suffered from 3 episodes of vomiting of blood also. There was, therefore, suppression of material information by the life assured of the treatment underwent during pre-proposal period. Hence repudiation was upheld. Reliance was placed on Medical knowledge that Portal Hypertension and Varices are Major complications of Cirrhosis both resulting from slowing down of blood flow through portal vein, increasing pressure inside portal vein and blood vessels in the stomach and esophagus. Moreover, vomiting of blood suffered by the life assured as per medical knowledge was the result of Cirrhosis of liver. The contention of the complainant that his wife was not medically examined was found to be untrue, since the Medical Examiner's report was very much available on record. His yet another condition that the Agent did not explain policy conditions was not held valid since the Agent while filling up proposal acted as the Agent of the insured only and not of the Insurer.

The repudiation decision upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2204 / 2004 - 05

Smt. Lalitha @ Lalli
Vs.
Life Insurance Corporation of India

Award Dated 21.10.2004

Late Manokaran took policy for Rs. 50,000/- with effect from 15.3.1998 and nominated his wife Smt. Lalitha @ Lalli. The policy lapsed due to non-payment of premiums and was revived thrice - once in 2000 and twice in 2001 on the strength of declaration of good health by the life assured. The life assured died on 11.4.2002 due to HIV. The claim was repudiated by LIC for wilful suppression of material information at the time of revivals, which decision was also upheld by Zonal Claims Review Committee on appeal by the claimant. Hence the present complaint.

Parties of the dispute were heard in person and the records perused. The Medical Certificates issued by the Doctors of a Govt. Sanatorium produced by the life assured to his employer did evidence that the life assured had undergone almost continuous treatment for Pulmonary Tuberculosis since 2000. The Medical Attendant's Certificate certifying the cause of death as HIV confirmed that the life assured had received certifying the cause of death as HIV confirmed that the life assured had received treatment at TB Sanatorium. The details of treatment underwent prior to revival, were not disclosed to the Insurer at the time of revival and hence it was held that there was suppression of wilful material information with knowledge on the basis of evidence on record. Evidence was also placed on the principles laid down by Courts of law that revival of a lapsed policy was a privilege accorded to the policyholder subject to certain limitations.

The decision to repudiate the claim setting aside the revivals was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.05.2282 / 2004 - 05
Smt. Santhi
Vs.

Life Insurance Corporation of India

Award Dated 21.10.2004

Late K. Raju took a LIC policy for Rs. 20,000/- on 28.2.2003 and nominated his wife Smt. Santhi thereunder. He died on 10.4.2003 due to Bronchial Asthma and Heart Disease. The claim for policy monies was repudiated by LIC. giving rise to the present complaint.

Parties to the dispute were heard and the records of the case perused. The complainant mainly contended that LIC had failed to consider a letter of the treating Doctor obtained and produced to LIC correcting the duration of illness to Asthma from one year to one month. The treating Doctor did issue a certificate that he was the usual medical attendant and that he had been treating him for Asthma the past one year. But no supporting records evidencing treatment for Asthma for the past one year could be produced by the Insurer. Even Accepting that the life assured had an attack of Acute Bronchial Asthma, it could have been only an isolated attack and the chronicity of the ailment was not held proved, in the absence of full particulars of the treatment underwent. The leave records of the life assured were clear in that there was no medical leave availed. It was held that the Insurer had failed to prove material suppression with irrefutable evidence.

The repudiation decision was interfered with and the complaint allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.05.2199 / 2004 - 05
Smt. B. Malliga
Vs.

Life Insurance Corporation of India

Award Dated 21.10.2004

Late L. Baskaran, a railway employee, took 2 policies of insurance on his life with LIC for Rs. 20,000/- and Rs. 25,000/- with effect from 20.2.2000 and 20.5.2000. He nominated his wife Smt. Malliga under both the policies. He died on 18.9.2001 due to Amoebic Liver abscess-Ruptured and Alcoholic Liver Disease. The claim for policy monies was rejected by LIC for suppression of material information relating to health. The repudiation decision was upheld by the Zonal Claims Review Committee, giving rise to the present complaint.

Parties to the dispute were heard and the case perused. The railway hospital records produced by LIC evidenced that the life assured was a known alcoholic hooked to alcohol for the past 10 years and used to consume alcohol daily. The life assured was admitted and he underwent treatment for alcoholism and withdrawal seizures and a CT Scan during pre-proposal period. The cause of death was also related to the alcoholic habit. The life assured was also absent from duties on several occasions, as could be gathered from the leave records. The life assured in his proposals for insurance did not disclose his alcoholic habit or the treatment therefor. It was therefore held on the basis of evidence on record that there was indeed wilful suppression of material information with knowledge, satisfying the provisions of Section 45 of the Insurance Act.

The repudiation decision was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2227 / 2004 - 05
Smt. P. Karpagam
Vs.
Life Insurance Corporation of India

Award Dated 24.10.2004

Late C. Pandian proposed for a policy on his life with LIC for Rs. 50,000/- on 30.3.2002. The proposal was accepted and the date of commencement backdated to 28.9.2001 at the request of the life assured. The assured died on 7.9.2003 due to Myocardial Infarction and Diabetes Mellitus. The Claim for policy monies was rejected by LIC stating that the life assured had suffered from TB and Diabetes during pre-proposal period but did not disclose the same at the time of proposing. This repudiation decision was upheld by the Zonal Claims Review Committee leading to a complaint before this Forum.

A personal hearing was held and the records of the case perused. The Medical Attendant stated that he had treated the life assured for Diabetes for 10 years and TB since 2000. But the treating Doctor could not furnish any treatment particulars or corroborative evidence for the treatment given. The complainant denied that her husband ever took treatment for TB but accepted that her husband was taking antidiabetic drug for the past 10 years only. LIC's Medical Examiner recorded in his report the urine sugar as nil and also clarified that he did not find any symptoms of TB at the time of his examination. Section 45 to the Insurance Act was operative. Hence it was held that the Insurer has failed to establish fraudulent suppression of material information.

The complaint was allowed for 50% of the policy sum as Ex-gratia.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.01.2286 / 2004 - 05
Smt. D. Ravindra Babu
Vs.
Life Insurance Corporation of India

Award Dated 28.10.2004

Late Smt. Vasundra Kumari insured herself with LIC for a sum of Rs. 50,000/- on 28.2.2002 and nominated her husband Shri D. Ravindra Babu. She died on 2.4.2003 due to Carcinoma Gall Bladder. The claim for policy monies was rejected stating that the life assured had taken treatment in a hospital for Epigastric pain prior to proposing for

insurance but did not disclose the same in her proposal and thus there was suppression of material information. On the repudiation decision being upheld by the Zonal claims Review Committee, the claimant has to approach this Forum.

A personal hearing was held. The records produced by the Insurer evidenced that the life assured had taken treatment for Gastric problem since 1999 after undergoing various tests including Ultrasonogram. The records of treatment during terminal stages of illness also stated that the life assured had history of Epigastric pain and was on medication for the past 2 years. Thus the insurer could clearly establish that the life assured had suffered from ailments of stomach since 1999 and she continued to be under treatment in various hospitals till her death due to Cancer. Section 45 of the Insurance Act was not applicable and material suppression was held proved on the basis of documentary evidence.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.01.2293 / 2004 - 05
Smt. T. Mallika

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2004

Late M. Thirunathan took a LIC policy on his life for Rs. 1,00,000/- on 29.12.2001. He nominated his wife Smt. T. Mallika under the policy. He died on 27.8.2003 due to heart failure. The claim for policy monies was repudiated by LIC on ground of suppression of material information on health. The repudiation decision was upheld by the Zonal Claims Review Committee and hence the present complaint before this Forum.

Parties to the dispute were granted a personal hearing. The complainant contended that the Agent only had filled up the proposal form and that the life assured had also undergone medical examination. The extensive medical records produced by the Insurer revealed that the life assured had an attack of Acute Myocardial Infarction in 1996 and had taken treatment therefor and was also a Diabetic for 12 years on medicines. That material information was not disclosed at the time of taking the policy. The cause of death was also due to heart failure. The repudiation of the claim was held valid, the Insurer satisfying the stipulations of Section 45 of the Insurance Act with irrefutable evidence. The contention that agent had filled up the proposal was not accepted since the agent while filling up the proposal acts as the Agent of the insured.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2287 / 2004 - 05
Smt. V. Saraswathi

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2004

Late V. Venkatesan took a LIC policy on his life for Rs. 1,00,000/- on 30.3.2002. He nominated his mother Smt. V. Saraswathi under the policy. The life assured died on 30.1.2003 and the cause of death was stated to be 'Accident effect Suicide'. The claim for policy monies was repudiated by LIC on ground of Suicide which was an exclusion under the policy. The repudiation decision was upheld by the Zonal Claims Review Committee and hence a complaint to this Forum.

Parties to the dispute were granted a personal hearing. The complainant surmised that her son who was ailing after sustaining severe injuries in a road accident could have consumed

an excessive quantity of sleeping/pain killer pills since she found a strip of pills empty. But there was no concrete evidence in the form of any medical or Police records to support the hypothesis that the assured had committed Suicide. Hence the decision to repudiate the claim presuming death due to Suicide on the statement of the claimant alone who was poor, illiterate and depressed due to the plight of her son, was not found justified.

LIC was ordered to pay 50% of the basic sum assured i.e. Rs. 50,000/- as Ex-gratia to meet the ends of justice. The complaint was partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.02.2281 / 2004 - 05
Shri A. Palaniappan
Vs.
Life Insurance Corporation of India

Award Dated 29.10.2004

Late P. Muthammal took a LIC policy on her life for Rs. 25,000/- on 28.2.1997. She nominated her son Shri A. Palaniappan under the policy. The policy lapsed due to non-payment of premiums and was revived on 10.3.2003 on the strength of declaration of Personal Statement regarding Health of the same date. The life assured died on 16.6.2003 due to HIV and Bronchiectosis with Nasocervical Pneumothorax. The claim for policy monies was repudiated by LIC on ground of suppression of material information relating to health at the time of revival. The repudiation decision was upheld by the Zonal Claims Review Committee and hence complaint to this Forum.

Parties to the dispute were heard. The medical records revealed that the life assured was admitted and had taken treatment in a hospital in 2002 for extensive Pulmonary Tuberculosis. The records of a Govt. Hospital also revealed that the life assured had taken treatment for Bronchiectasis, Pneumothorax, fever, giddiness, etc. since 2002 till her death due to HIV. The pre-revival treatment particulars were not disclosed at the time of revival. It was therefore held that there was intentional suppression of material informations with full knowledge satisfying the stipulations of Section 45 of the Insurance Act. 1938, on the basis of medical records.

LIC's decision to settle paid up value acquired before revival was held justified and the complaint for payment of full sum assured under the policy was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2201 / 2004 - 05
Smt. A. Jothimani
Vs.
Life Insurance Corporation of India

Award Dated 29.10.2004

Late A. Baskar took LIC policy for Rs. 1 Lakh on 24.4.1996. He nominated his mother Smt. A. Jothimani. He died on 27.8.2002 and the cause of death was burn injuries. LIC settled the claim for basic sum assured but refused to pay the Accident Benefit for the reason that the life assured died of an attempt to suicide, which attracted exclusion clause under the policy.

Parties to the dispute were heard. The complainant contended that her son, after a quarrel, poured petrol over himself only to threaten the family and not with an intention to commit suicide and that he got lit from a candle which was burning nearby, quite unexpectedly and died of the burn injuries. A perusal of the medical records revealed that the life assured died solely as a result of burn injuries and Septicaemia. Policy condition 10.2(b) clearly excluded disability and death benefit if the same was caused by intentional self-injury, attempted suicide, insanity or immorality or when the life assured is under the influence of intoxicating liquor, Drug or narcotic. Police records made clear that there was an attempt to

suicide. Since the same was exclusion under the policy for considering Accident Benefit, the Insurers decision not to settle Accident Benefit was upheld. The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2304 / 2004 - 05
Shri G. Ramakrishnan
Vs.
Life Insurance Corporation of India

Award Dated 3.11.2004

Shri G. Ramakrishnan took a Children's Moneyback policy on the life of his minor child Master Manikandan on 31.1.1998. The risk under the policy was to commence with effect from 28.1.2004. The minor life assured died on 3.10.2003 in a road accident. LIC refused to settle the full sum assured since the risk under the policy did not commence. LIC however offered to return the premiums paid under the policy in terms of policy conditions. The complainant not satisfied with the decision of LIC approached this Forum for settlement of full sum assured.

Parties to the dispute were heard. The complainant contended that he was not aware of technical intricacies, that the exact date of commencement of risk was not informed to him by the Agent, that other insurers provided risk cover even from age 0 to 4 and that he deserved sympathetic consideration as he has lost his dear son. The records of the case were perused. The special type of plan provided risk cover even during the minority of the child from the policy anniversary following completion of 7 years of age of the child and in case of death before commencement of risk a return of the entire premium paid. The date of birth of the child was 5.2.1996 and he completed age 7 on 5.2.2003. Since the policy commenced on 28.1.1998, the risk under the policy commenced with effect from 28.1.2004, which was the immediate policy anniversary following completion of age 7 on 5.2.2003. However the child died on 3.10.2003, before commencement of risk on 28.1.2004. Hence the decision of the Insurer to refund the premiums paid was held to be in conformity with the policy conditions. AS for the contention of the complainant that other Insurance offered policies on which risk commenced even before age 4, each Insurer offered policies with different condition and the specific terms stated under the policy are applicable with different condition and the specific terms stated under the policy are applicable. His another contention that Agent filled up the proposal form was not acceptable since it is well settled in law that Agent acted as the Agent of the Insured while filling up the proposal form.

LIC's decision to refund the premiums paid under the policy was upheld. The complaint for payment of full sum assured was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2292 / 2004 - 05
Smt. S. Chandra
Vs.
Life Insurance Corporation of India

Award Dated 3.11.2004

Late A. Selvarasu took a LIC policy for Rs. 34,000/- as per his proposal dated 31.3.1997. He nominated his wife Smt. S. Chandra thereunder. The policy lapsed due to default of premium and was revived on 20.10.2001 on the strength of a declaration of good health. The assured died on 23.12.2001 within a few months of revival and the cause of death according to the claimant was Heart Attack. LIC set aside the revival and repudiated the claim for suppression of material information on health at the time of revival. That decision was upheld by the Claims Review Committee leading to the present complaint.

Parties to the dispute were heard and the records of the case perused. The medical records produced by the Insurer revealed that the life assured had suffered from heart ailments, underwent hospitalisation and was advised surgery, before reviving the policy. The leave records also stated the assured was on leave during the period of his treatment. The revival was effected 5 days after discharge from the hospital without disclosing the same at the time of revival. The life assured died of post operative complications. There was therefore clear intentional suppression of material information on the basis of indisputable evidence placed on record, satisfying the stipulations of Section 45 of the Insurance Act.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. (CHN) / 21.04.2315 / 2004 - 05
Smt. S. Gomathi
Vs.
Life Insurance Corporation of India

Award Dated 3.11.2004

Shri M. Sekar (since deceased) took a LIC policy for RS. 75,000/- vide his proposal dated 11.12.2000 and the risk therein was backdate to commence from 4.12.2000 as per request. He nominated his wife Smt. S. Gomathi thereunder. He died on 12.3.2002 due to Cancer of Stomach operated. The claim for payment of policy monies was repudiated for suppression of material information relating to his health at the time of proposal, which decision was upheld by the Zonal Claims Review Committee, leading to the present complaint.

Parties to the dispute were heard and the records of the case perused. The Cancer Hospital's case sheets revealed that the life assured underwent Total Gastrectomy in 1998 and was undergoing periodical checkups. Various diagnostic tests were also done. The life assured was also on leave on medical grounds during the period of his treatment, as per the leave records. These details were not disclosed at the time of proposing for insurance. There, therefore, was clear suppression of material information with full knowledge satisfying the stipulations of Section 45 of the Act. The contention of the complainant that her husband was suffering from stomach pain and that Cancer came to knowledge only during terminal illness was not accepted since the Cancer Institute's records clearly evidenced that the life assured was diagnosed to be suffering from Carcinoma in 1998 itself.

The repudiation decision was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2295 / 2004 - 05
Smt. P. Johnsy
Vs.
Life Insurance Corporation of India

Award Dated 4.11.2004

Shri B. Rosari (Late) took a LIC policy for Rs. 1 lakh for a term of 20 years with effect from 22.2.2002 and nominated his mother Smt. P. Johnsy under the policy. The premiums under the policy were being deducted from the salary of the assured under Salary Savings Scheme. Since premiums were paid only upto the premium due 22.3.2003 and further premiums not being paid, the policy remained lapsed with effect from 22.4.2003. The life assured died on 27.6.2003. LIC rejected the claim since the policy was in a lapsed condition. The Zonal Claims Review Committee upheld the decision.

The records of the case received from LIC were perused. It is clear that the policy was in a lapsed condition on the date of death of the life assured. Moreover the policy did not acquire any paid up value, as premiums were not paid thereunder for a minimum period of

3 years as per policy conditions. Therefore, the contention of LIC that nothing was payable was upheld. Since policy conditions were clear, no hearing was held and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.02.2321 / 2004 - 05
Smt. Samundeeswari
Vs.
Life Insurance Corporation of India

Award Dated 4.11.2004

Shri Srinivasan (Late) took a LIC policy for Rs. 30,000/- for a term of 20 years with effect from 28.3.2003 and nominated his daughter Smt. Samundeeswari under the policy. The life assured died on 25.5.1993. The claimant preferred the claim in 2003, nearly 10 years after the death of her father. LIC rejected the claim as time barred invoking Article 44 (a) of the Limitation Act, 1963 and the decision was upheld by the Zonal Claims Review Committee. Hence the present complaint.

The records of the case received from LIC were perused. The complainant contended that the claim was preferred late since the family came to know of the policy only in 2003 on going through his belongings. Article 44 (a) of the Limitation Act set a limit of 3 years for preferring a claim under policy of insurance. Hence the contention of LIC was upheld and the complaint was dismissed. Personal hearing was not felt necessary, in view of the clear nature of the case.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2326 / 2004 - 05
Smt. C. Ramalakshmi
Vs.
Life Insurance Corporation of India

Award Dated 5.11.2004

Shri U. Chellamuthu (since deceased) took a LIC policy for Rs. 35,000/- on 28.11.1992, nominating his wife Smt. C. Ramalakshmi thereunder. The policy lapsed due to discontinuance of premiums and was revived on 2.1.2003 on the strength of Personal Statement regarding Health. The assured died on 12.11.2003 due to Myocardial Infarction and Hypertension. LIC repudiated the claim citing suppression of material information at the time of revival, since they held proof to show that the life assured was suffering from Hypertension and had taken treatment therefor before reviving the policy. LIC had however settled paid up value acquired before revival. On appeal, Zonal Claims Review Committee upheld the repudiation decision, leading to the present complaint.

Parties to the dispute were heard and the records of the case perused. The Medical Attendant's Certificate did state that the life assured was suffering from Hypertension since 1999. But the case records stated that the life assured was not a diabetic or hypertensive. Moreover, BP readings were not available in the case records, suggesting that Hypertension on a solitary occasion could not be of pathogenic origin. The Insurer had failed to prove material suppression as cast upon him by the stipulations of Section 45 of the Act.

The complaint was allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2237 / 2004 - 05
Smt. G. Rani
Vs.
Life Insurance Corporation of India

Award Dated 18.11.2004

Shri A. Gopalakrishnan (Late) took 3 LIC policies each for Rs. 50,000/- with effect from 20.2.2000, 19.3.2001 and 15.2.2002 and nominated his wife Smt. G. Rani under the policies. He died on 19.4.2002 due to Myocardial Infarction. The claim under the policies was repudiated for suppression of material information relating to the health condition of the assured. The repudiation decision was also upheld by the Zonal Claims Review Committee giving rise to the present complaint.

Records of the case were duly perused. A personal hearing of the parties to the dispute was also held. The medical records produced by LIC evidenced that the life assured was suffering from chronic pulmonary tuberculosis since 1997. The leave applications produced to the employer also cited Pulmonary Tuberculosis and the life assured had availed as much as 119 days of leave on various spells during a period of 3 years from 1998 to 2001 for treatment thereof. Therefore the history of ailment went prior to the earliest policy of insurance in 2000 and the same was not disclosed in proposals for insurance. The intentional suppression of material information was held established on the basis of medical evidence satisfying the stipulations of Section 45 of the Insurance Act. The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.05.2274 / 2004 - 05
Smt. V. Chandra
Vs.
Life Insurance Corporation of India

Award Dated 26.11.2004

Shri K. V. Veeramani (Late) took a LIC policy for Rs. 50,000/- on 28.1.2000. He nominated his wife Smt. V. Chandra thereunder. The policy lapsed due to discontinuation of premiums and was revived on 11.6.2001 on the strength of declaration of good health. The assured died on 18.2.2003 due to Bronchiectasis and renal failure. The claim for policy monies was repudiated on ground of suppression of pre-revival ailments. The decision was upheld by the Zonal Office Claims Review Committee, leading to the present complaint.

A personal hearing was held and documents perused. Though an inference could be drawn that the assured was not well before revival, no concrete evidence was produced by Insurer by way of treatment particulars to prove that the life assured suffered from Bronchiectasis prior to revival. Section 45 of the Insurance Act was also operative. Hence the repudiation decision was set aside.

The complaint was allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2363 / 2004 - 05
Shri N. Nedunchezian
Vs.
Life Insurance Corporation of India

Award Dated 26.11.2004

Ms. N. Allirani took a LIC policy for Rs. 50,000/- on her life on 15.3.2001. She nominated her brother Shri N. Nedunchezian under the policy. She died on 7.6.2003 due to Primary Pulmonary Hypertension. The claim for policy monies was repudiated by the Insurer for suppression of material information relating to health. The decision was upheld by the Zonal Claims Review Committee leading to the present complaint.

Parties to the dispute were heard. An examination of the hospital records produced by the Insurer evidenced that the life assured was a patient of Hypothyroidism since 2000 on medicines and had breathlessness on exertion for 5 years. The cause of death Pulmonary Hypertension had nexus with pre-proposal illness. It was therefore held that there was

suppression of material information incapacitating the Insurer from making proper assessment of risk and Section 45 was not attracted.
The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2361 / 2004 - 05
Shri S. Francis
Vs.
Life Insurance Corporation of India

Award Dated 26.11.2004

Shri T. Selvaraj took a LIC policy for Rs. 20,000/- on 21.5.2002. He nominated his son Shri S. Francis under the policy. The policy lapsed due to non-payment of premium and was revived on 3.10.2003 on the strength of a declaration of good health. He died on 4.10.2003, the next day of revival. The claimant stated the cause of death as heart attack. But LIC on investigation obtained hospital records evidencing that the life assured was hospitalised from 22.6.2002 and 15.7.2002 for treatment of Pneumothorax. Due to suppression of pre-revival illhealth, LIC repudiated the claim declaring the revival null and void.

Parties to the dispute were heard. The complainant did accept that the life assured was under hospitalisation and treatment during pre-revival period. But he disowned that his father had ever signed the declaration of good health but accepted that with great difficulty he managed to pay the money for revival demanded by the Agent. A perusal of the records did evidence that there the signature contained in the declaration of good health varied widely with that in the proposal for insurance, pointing to foulplay by the Agent. Therefore the contention of the complainant that the life assured did not sign the declaration of good health was accepted and consequently the revival treated as non-existent.

LIC ordered to pay to the complainant Rs. 1617/- paid to LIC towards revival of the lapsed policy of insurance and initiate action against Agent.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2354 / 2004 - 05
Smt. V. Valliammal
Vs.
Life Insurance Corporation of India

Award Dated 30.11.2004

M. Jeyapaul (Late) took 2 LIC policies for Rs. 50,000/- each with effect from 28.5.2002. He nominated his wife Smt. Valliammal. He died on 20.10.2002. The claim under the policies was repudiated for suppression of material information relating to health by the life assured and for not disclosing the leave availed prior to proposing for insurance. The decision was upheld by the Zonal Claims Review Committee leading to the present complaint.

Personal hearing was held and records perused. The complainant contended that her husband availed leave on sick grounds as is the common practice amongst Govt. servants, to attend to family matters only. The medical certificates produced for leave purposes stated Acute Gastritis and Chronic Obstructive Pulmonary Disease as reasons for leave. But other than the medical certificates, no other evidence was produced by the Insurer to prove that the life assured had suffered from any illness prior to proposing for insurance. Hence the repudiation decision was set aside.

The complaint was allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2334 / 2004 - 05
Smt. S. Shanmuga Sundaram
Vs.

Life Insurance Corporation of India

Award Dated 30.11.2004

Smt. K. Devikumari (Late) took 2 LIC policies on her life for Rs. 25,000/- and Rs. 45,000/- on 15.12.2001 and 7.2.2001 respectively. She nominated her husband Shri S. Shanmuga Sundaram under the policies. She died on 18.2.2003. The claim was repudiated for suppression of sick leave of 38 days availed prior to proposing for insurance under both the policies. The repudiation decision was upheld by the Zonal Claims Review Committee whereupon the complainant chose to represent to this Forum.

A Personal hearing was held. The complainant admitted that due to a family quarrel, his wife consumed some expired tablets, developed chest pain, was hospitalised and passed away. He also stated that the leave was taken on sick ground for exhausting the accumulated leave and that too for common problems like diarrhoea and fever only. The records of the case were perused. LIC could not produce medical certificates in support of leave as the same were not available with the concerned authorities. Hence the reason for leave was not ascertainable and it was held that the Insurer did not prove material suppression with fraudulent intention in view of attraction of Section 45. Though there was an attempt to suicide, suicide clause exclusion was not attracted as death had taken place one year after taking the policies. Hence the repudiation decision was set aside.

The complaint was allowed.

**Chennai Ombudsman Centre
Case No. IO (CHN) / 21.02.2360 / 2004 - 05
Smt. T. E. Shanmugam**

Vs.

Life Insurance Corporation of India

Award Dated 15.12.2004

S. Sankar (Late) took a policy of insurance on his life for Rs. 60,000/- with LIC which commenced on 28.3.1996. He nominated his father Shri T. E. Shanmugam under the policy. He died on 21.10.1996. The insurer repudiated the claim as time barred since the claim was preferred after a period of 6 years attracting provisions of the Limitation Act. The repudiation decision was upheld by the Zonal Claims Review Committee. The complainant preferred a complaint to this Forum.

A personal hearing was held. The complainant contended that his son died of sudden chest pain and did not commit suicide. The insurer stated that the claim forms were received by LIC only on 30.9.2002, six years after the date of death. As per their investigation, the cause of death was suicide within 1 year, attracting exclusion under Suicide clause and claim was purposefully preferred belatedly denying the opportunity to LIC of establishing the real cause of the death. However, the complainant produced a reminder letter from the Branch Office of the Insurer dated 17.6.2002 showing that the claim was intimated to LIC much prior to the date of submission of Claim Forms to LIC. However, it is fact that there was delay in submission of claim forms to LIC, hampering the Insurer from conducting investigation and collecting evidence on the cause of death. In the circumstance of the case, it was decided to allow an Ex-gratia at the rate of 50% of the sum assured to the complainant.

The complaint was partly allowed and LIC ordered to pay Rs. 30,000/- representing 50% of the basic sum assured.

**Chennai Ombudsman Centre
Case No. IO (CHN) / 21.03.2395 / 2004 - 05**

Smt. C. Annapoorani
Vs.
Life Insurance Corporation of India

Award Dated 15.12.2004

M.R.Chinraj (Late) took a policy of insurance on his life for Rs. 1,00,000/- with LIC which commenced on 28.3.2002. He nominated his wife Smt. C. Annapoorani under the policy. He died on 3.4.2002. The insurer repudiated the claim for suppression of material information that the life assured suffered from Right leg Cellulitis and had taken treatment therefor during pre-proposal period. The repudiation decision was upheld by the Zonal Claims Review Committee. Thereafter the complainant preferred a complaint to this Forum.

A personal hearing was held. The complainant contended that Cellulitis developed due to a thorn prick only and not due to any ailment. The medical records produced by the Insurer evidenced that the life assured was indeed hospitalised for 10 days and treated for Cellulitis during pre-proposal period and to that extent there was suppression of material information. But the ailment did not have a deleterious effect on the health of the life assured and did not affect the risk assessment process of the Insurer in any way. Moreover since stipulations under Section 45 of the Act as regards fraudulent intention was not proved, the claim was allowed.

Reliance was placed on the case decided by the Hon'ble High Court of Madras in Athayee vs LIC that a legal principle could not be pushed to extreme logical conclusions.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2380 / 2004 - 05
Smt. M. Arulselvi
Vs.
Life Insurance Corporation of India

Award Dated 21.12.2004

J. Mathivanan (Late) took 2 LIC policies on his life each for Rs. 50,000/- which commenced on 13.2.2001. He nominated his wife Smt. M. Arulselvi thereunder. He died on 21.11.2002 after consuming poison due to stomach pain. The insurer repudiated the claim for suppression of material information that the life assured suffered from Peptic / Duodenal Ulcer and was hospitalised and took treatment therefor and also availed sick leave during pre-proposal period but did not disclose the material information in his proposals. The repudiation decision was upheld by the Zonal/Central Office Claims Review Committee also whereupon the claimant chose to prefer a complaint to this Forum.

A personal hearing was held. The complainant contended that while settling claim under 8 previous policies, LIC had unjustly negated her claim under 2 policies alone. She however admitted to her husband suffering from stomach pain and taking treatment and dying after consuming poison due to unbearable pain. The police records and post mortem report confirmed of the life assured's death due to poisoning. The leave records alluded to the life assured's treatment for Ulcer. The medical records did evidence that the life assured had taken treatment for Peptic Ulcer during pre-proposal period. But LIC could not produce any treatment records from the doctors who have treated the life assured throwing light on the intensity of ailment and its material bearing on the death and Peptic Ulcer could not be said to be life threatening. There was material suppression but the insurer had failed to prove fraudulent suppression with concrete evidence satisfying the stipulations of Section 45 of the Insurance Act.

The repudiation was set aside and LIC ordered to pay 50% of the sum assured (Rs. 50,000/-) as Ex-gratia.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2409 / 2004 - 05

Shri M. Solai Vadivel
Vs.
Life Insurance Corporation of India

Award Dated 23.12.2004

Smt. S. Muthulakshmi (Late) took a LIC policy for a sum assured of Rs. 25,000/- which commenced on 15.2.2001. She appointed her father on behalf of the nominee, her minor daughter. She died on 5.3.2003 due to Rheumatoid Arthritis, Pleural Effusion and respiratory failure. The claim for policy monies was repudiated. On appeal Zonal Claims Review Committee paid Rs. 5000/- representing 20% of the sum assured as Ex-gratia. The claimant preferred a complaint before this Forum for full sum assured along with Bonus under the policy.

Parties to the dispute were heard and the records perused. The complainant denied her daughter ever having taken any medical treatment for Rheumatoid Arthritis before proposing for insurance and that the recording contained in the hospital records was wrong since he did not accompany her daughter to the hospitals at all. But the certificates of the 2 Government hospitals recorded the history of Rheumatoid Arthritis as 3 and 5 years and that the life assured was on steroids for the past 5 years as reported by the attendants of the patient. The information contained in the two Govt. hospital's records could not be brushed aside and positive inference of pre-proposal ailment could definitely be drawn. There was therefore material suppression. At the same time, since the sum assured was low and the Insurer failing to prove fraudulent suppression satisfying Section 45 of the Insurance Act with irrefutable evidence, to ensure equity and justice, LIC was directed to pay 50% of the basic sum assured to the complainant as Ex-gratia, subject to recovery of Rs. 5000/- paid already. The complaint was partly allowed and LIC was ordered to pay an Ex-gratia of Rs. 12,500/-

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2328 / 2004 - 05
Smt. B. Sakkina
Vs.
Life Insurance Corporation of India

Award Dated 23.12.2004

K. Badhusha (Late) took a policy of insurance on his life with LIC for a sum assured of Rs. 5 lakhs which commenced on 28.1.2003. He nominated his wife Smt. B. Sakkina thereunder. He died on 25.09.2003 due to Carcinoma Nasopharynx. The claim was repudiated for suppression of material information relating to health of the life assured. The repudiation decision was upheld by the Zonal Claims Review Committee on appeal and hence the present complaint.

A personal hearing was held. The complainant contended that special reports were taken and the life assured was medically certified fit. She accepted that her husband had occasional nose bleeding. But she was not aware of Cancer since the first consultation with hospital took place only 3 months after taking the policy. The documents were perused. The hospital records evidenced that the life assured had complaints of swelling on both the side of his neck, difficulty in hearing and history of Epistaxis, stretching back to the pre-proposal period and was referred there for further management of the disease. Evidently, the life assured had suffered from serious complications of health and the symptoms of the disease Cancer had already manifested prior to taking the policy and the life assured had taken treatment elsewhere before being referred to the hospital concerned for further management. Surely tests like ECG and BST underwent by the life assured could not throw any light on Cancer and there was substance in the argument of the Insurer that, had the life assured disclosed the pre-proposal ailments, LIC would have conducted full blood tests and opportunity to make proper assessment of the risk was denied to them. Civil complaints could be decided on the basis of preponderance of probabilities and reliance

was placed on the decisions of the Hon'ble Supreme Court of India in M. Krishnan vs Vijay Singh & Anr and Hon'ble High Court of Kerala in Manni vs Paru. Since Section 45 of the insurance Act was not applicable in full and the Insurer could prove material suppression on the basis of medical evidence, the repudiation decision LIC of was upheld. However the Insurer was directed to take stringent action against the Agent and the Medical Examiner for their dereliction of duties and devise appropriate underwriting safeguards.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2296 / 2004 - 05
Smt. B. Mythili
Vs.
Life Insurance Corporation of India

Award Dated 2.12.2004

S.Balan (Late) proposed for a policy for Rs. 1 Lakh on his life with LIC vide his proposal dated 28.3.2002. The proposal was received by LIC on 30.3.2002. The decision to accept risk was taken on 3.4.2002. The life assured died on 29.3.2002 before the decision to undertake the risk was made. The insurer repudiated the claim on ground that the life assured suppressed material information pertaining to his health. The repudiation decision was upheld by the Zonal Claims Review Committee. The complainant, thereafter represented to this forum for reconsideration.

Personal hearing was held and records perused. The hospital records produced by the Insurer did evidence that the life assured had undergone treatment for Peptic Ulcer, substance abuse and had also undergone piles surgery six months before proposing for insurance but did not disclose the same in his proposal. It was also a case of uncompleted contract since proposal paper was received by the Insurer only after death of the life assured and therefore no concluded contract came into existence. However the Insurer adopted a liberal approach and considered the claim. Since there was a material suppression, the decision to repudiate claim was upheld. Reliance was placed on the decision of the Hon'ble Supreme Court of India in LIC vs Raja Vasireddy Komalavalli that contract was not complete until the decision to accept risk was communicated.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2313 / 2004 - 05
Smt. R. Gunasundari
Vs.
Life Insurance Corporation of India

Award Dated 8.12.2004

K. Rajendran (Late) took a policy of insurance on his life for Rs. 25,000/- with LIC which commenced on 10.11.1999. He nominated his wife Smt. R. Gunasundari under the policy. The life assured died on 5.10.2001 due to Myocardial Infarction and Asthma. The insurer repudiated the claim on ground of suppression of material information pertaining to health. The repudiation decision was upheld by the Zonal Claims Review Committee. The complainant preferred a complaint to this Forum.

The complainant was not present for the personal hearing but submitted that the Agent had obtained signature on blank proposal form and that Section 45 of the Insurance Act was attracted and hence LIC was not entitled to repudiation of claim. The extensive hospital records produced by the Insurer revealed that the life assured was a known Asthmatic patient and was taking treatment therefor. He underwent hospitalisation and treatment and diagnosed as hypertensive with Ischaemic Heart Disease and Antero Septal Myocardial

Infarction before proposing for insurance. The cause of death also had nexus with the pre-proposal ailments. Hence the Insurer could clinchingly prove that there was wilful suppression of material information satisfying the stipulations of Section 45 of the Insurance Act.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2398 / 2004 - 05
Smt. M.Y. Ameer Sulthan Beevi
Vs
Life Insurance Corporation of India

Award Dated 27.12.2004

(Late) A. S. Mohd. Yaseen took a LIC policy for Rs. 1 lakh on 27.2.2001 and nominated his wife Smt. M.Y. Ameer Sulthan Beevi. He died on 31.8.2002 due to Myocardial Infarction. The claim for policy monies was refused due to suppression of material information on health. The repudiation decision was upheld by the Zonal Claims Review Committee.

Parties were heard. The complainant contended that the sick leave was taken for celebrating family functions and the life assured was in good health at the time of taking the policy. The insurer stated that the life assured had availed sick leave for treatment of serious illnesses such as Peptic Ulcer, Vasular Headache and Diabetes before proposing for insurance but did not disclose the same at the time of taking the policy. The medical certificates produced by the life assured to his employer did evidence various pre-proposal ailments. There was therefore suppression of material information. But Section 45 of the Act was applicable since repudiation decision was taken 2 years after the policy. The Insurer did not produce irrefutable evidence like treatment particulars to prove fraudulent suppression. To ensure equity and natural justice, the Insurance was directed to pay to the complainant 50% of the sum assured as Ex-gratia.

The claim was partly allowed for an Exgratia of Rs. 50,000/-.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.03.2352 / 2004 - 05
Smt. B. Selvarani
Vs.
Life Insurance Corporation of India

Award Dated 28.12.2004

(Late) N. Balasubramanian took a LIC policy for Rs. 50,000/- which commenced on 10.3.2003. He nominated his wife Smt. B. Selvarani. He died on 28.8.2003 due to Chest pain and Myocardial Infarction. The Insurer repudiated the claim for suppression of material information relating to pre-proposal health by the life assured. The repudiation decision was upheld by the Zonal Claims Review Committee leading to a complaint before this Forum.

Parties to the dispute were heard and the records produced perused. The Insurer produced extensive evidences like case records, Biopsy report. etc. which evidenced that the life assured had swelling in groins and neck was diagnosed to be suffering from Hematolymphoid malignancy (Cancer) in December 2002 itself. The pre-proposal illhealth and treatment therefor was not disclosed in the proposal. It was a clear case of material suppression and the repudiation decision was upheld.

The complaint was dismissed.

Chennai Ombudsman Centre

Case No. IO (CHN) / 21.08.2405 / 2004 - 05

Smt. R. Punithavathi

Vs.

Life Insurance Corporation of India

Award Dated 30.12.2004

(Late) K. Ravindran took 2 LIC policies on his life for Rs. 50,000/- and Rs. 25,000/- on 20.3.2001. He nominated his wife Smt. R. Punithavathi. He died on 25.6.2003 due to heart attack. The claims under the policies were repudiated for suppression of material information relating to health and leave availed on sick grounds. The repudiation decision was upheld by the Zonal Claims Review Committee. Thereafter the complainant has approached this Forum.

A personal hearing was held and the records perused. In the medical records of treatment received by the life assured before death, it was mentioned that the life assured was a known diabetic for 12 years. But no treatment particulars were made available to corroborate the stand that the life assured continued to suffer from Diabetes. Similarly, for sick leave also, no supporting medical record was made available to prove that the life assured was suffering from serious ailments. Since Section 45 of the Act was applicable and the Insurer having failed to prove fraudulent suppression with clinching evidence, the Insurer was directed to settle the claim under both the policies. The decision of Hon'ble Supreme Court of India in the case of Mithoolal Nayak Vs. LIC was relied upon. The complaint was allowed.

Chennai Ombudsman Centre

Case No. IO (CHN) / 21.02.2387 / 2004 - 05

Smt. G. Fatima Rani

Vs.

Life Insurance Corporation of India

Award Dated 4.1.2005

(Late) M. Amalraj took a policy of insurance on his life with LIC for Rs. 50,000/- under triple cover plan which covered risk of Rs.1,50,000/-. The policy commenced on 28.5.2000. He nominated his wife Smt. G. Fatima Rani under the policy. He died on 18.4.2003 due to massive Haemoptysis and cardio respiratory arrest. The claim for policy monies was repudiated by LIC leading to present complaint.

A personal hearing of the disputants was held. The complainant contended that the life assured was completely cured of TB in 1995 after receiving treatment. The medical certificates produced by LIC evidenced that the life assured was a known case of Pulmonary Tuberculosis since 1995 and was treated with Anti-Tubercular drugs and was cured. It was held that there was material suppression of pre-proposal illness TB, which had the effect of altering the character of risk undertaken by the Insurer more particularly under a high risk plan. But the Insurer could not produce irrefutable evidence of continued existence of and treatment for TB or any other illness. The Insurer therefore failed to satisfy the stipulations of Section 45 of the Insurance Act with regard fraudulent intention. The leave records of the life assured were not suggestive of any failing health and absence due to such reasons. Hence in tune with the principles of equity and natural justice, it was decided to allow one basic sum assured plus bonus under the policy to the complainant instead of three times the sum assured as available under this special plan.

The complaint was partly allowed for Rs. 50,000/- plus accrued Bonuses.

Chennai Ombudsman Centre

Case No. IO (CHN) / 21.08.2394 / 2004 - 05

Smt. D. Panchavarnam

Vs.
Life Insurance Corporation of India

Award Dated 11.1.2005

(Late) J. Devarajan took a LIC policy for Rs. 50,000/- on 29.3.2001 and nominated his wife Smt. D. Panchavarnam. He died on 21.4.2003 due to heart attack. The claim for policy monies was repudiated by LIC on ground of suppression of material information which decision was upheld by the Zonal Claims Review Committee, leading to a complaint before the Forum.

A personal hearing was held. The complainant denied her husband having suffered from Peptic Ulcer. But she admitted to her husband having taken treatment with a Doctor. The leave applications with supporting medical certificates evidenced that the life assured had availed medical leave citing Peptic Ulcer during pre-proposal period, which he did not disclose at the time of proposing for insurance. The Insurer produced certificates obtained from the doctor who had issued medical certificates to the effect that he had treated the life assured for abdominal pain and swelling and the diagnosis was cirrhosis of liver with portal hypertension. But LIC did not produce any conclusive proof such as hospital records to show that the life assured had suffered from any serious ailment and if so the severity thereof. The cause of death was also heart attack. Since Section 45 of the Act was applicable and since the Insurer could not produce conclusive evidence to establish existence of serious pre-proposal illness and treatment thereof, it was held that fraudulent material suppression was not proved. Hence the repudiation decision was set aside. The complaint was allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2440 / 2004 - 05
Smt. M. Santha
Vs.
Life Insurance Corporation of India

Award Dated 17.1.2005

(Late) M. Pitchaiammal took a LIC policy for Rs. 50,000/- on her life on 15.2.2003. She appointed her sister Smt. Santha, to receive policy monies on behalf of her daughter, minor nominee under the policy. She died on 23.8.2003 due to Cerebral Haemorrhage and Myocardial Infarction. The claim was repudiated by the Insurer alleging suppression of material information relating to health. The repudiation decision was upheld by the Zonal Officer of the Insurer, leading to the present complaint.

Parties were heard and records perused. The Insurers produced hospital case records for post-proposal treatment, with history of a number of complaints like Hypertension, Hemiplegia, Eclampsia and abortion. LIC could not produce any evidence of pre-proposal treatment. But consistently high blood pressure readings suggested to chronic hypertension contributing to complications like Hemiplegia which could not have developed overnight. Moreover the death was due to Cerebral Haemorrhage and MI which had nexus with Hypertension. But given the social, economical and educational background of the life assured it was held that non-disclosure of hypertension would not have been wilful. Applying principles of natural justice and equity, the Insurer was directed to settle 50% of the basic sum assured as Ex-gratia i.e. Rs. 25,000/- The Forum also took note about the termination of the Agent for his gross dereliction of duties. The claim was partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2431 / 2004 - 05
Smt. Maheshwari
Vs.

Life Insurance Corporation of India

Award Dated 31.1.2005

Smt. Maheshwari, w/o Late Shri M. Manivasagam, complained that L.I.C. of India, the Insurer repudiated her claim under the policy on the life of her late husband alleging material suppression of information in the personal statement of health given at the time of revival of the policy. The Insurer repudiated the claim on the ground that the assured did not divulge his suffering from and treatment for Right Ischiorectal Abscess while reviving the policy.

All the case records have been called for and perused. A personal hearing of both the parties was also arranged. It came out therefrom that the assured suffered from 'Tuberculosis Prostatic Abscess, Phenobarbitone Poisoning and Immuno Compromised State' He was tested for and diagnosed to be HIV+ ve and a thorough reading of the hospital records of Christian Medical College Hospital threw out the possibility that his tubercular abscess could directly be related to his HIV infection. The various diagnostic tests done and the medicines prescribed strongly suggested HIV infection and other Opportunistic diseases of HIV. The treatment therefor continued right from 09/2000. there was surgical treatment of the abscess also. All these treatments were well before the revival of the policy. These vital pieces of information were not divulged in the personal statement of health while reviving the policy. Hence material suppression of the information with full knowledge of the same, hence fraudulent, was proved with irrefutable documentary evidence by the Insurers thus satisfying the requirements of Sec. 45 of Insc. Act.

However, since the policy has already acquired paid up value before revival, the Insurers are directed to settle the paid-up value with accrued bonuses, which they have already offered to settle.

The Complaint is dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2447 / 2004 - 05
Smt. C. Rajendran
Vs.

Life Insurance Corporation of India

Award Dated 31.1.2005

Shri C. Rajendran, H/o Late S. Premalatha, lodged a complaint with this forum seeking the intervention of this forum in making available to him the policy monies under the policy on the life of his wife, which the insurer refused to give alleging material suppression. The Insurer's contention was that the assured suffered from Tuberculosis and Chronic Heart Disease and underwent treatment therefor in a hospital before proposing. The repudiation was challenged by the complainant.

All the necessary case records were called for and perused. The contending parties were called for a hearing and their submissions recorded. It emerged therefrom that the assured was first admitted in Bethesda Hospital, Ambur on 03/95 for treatment of Tuberculosis and Ischemic Heart Disease. The treatment for these ailments was almost continuous in the same hospital upto 2002. The Proposal was submitted in 02/2003 and the policy commenced on 28/02/2003. The assured died of Chest Pain on 21.03.2003 within a month of taking the policy. All the hospital case records giving details of treatment taken throughout the period were submitted by the insures, which amply proved the chronicity of the ailments referred from which the assured suffered for well over 8 years. Death also resulted due to relatable causes. Thus the policy was taken at a time when the assured was chronically ill without divulging the ailments and treatment for the same. Hence there was a clear material suppression of vital information.

It is worth noting here that the provisions of Sec. 45 of Insc. Act are not applicable in entirety in view of the repudiation action having been taken well within two years of the

commencements of the policy and it is enough if the insurer is able to prove material suppression, which the insurer has done with authentic documentary evidence.

Hence the repudiation action is upheld and the Complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.02.2271 / 2004 - 05
Smt. Premalatha Chhajer
Vs.
Life Insurance Corporation of India

Award Dated 02.02.2005

Smt. Premalatha Chhajer of Chennai challenged before this forum the repudiation decision of the Insurers, L.I.C. of her claim for policy monies under the policy of Rs. 5,00,000/- on the life of her late husband Shri Lalith Kumar Chhajer. L.I.C. Contended that the assured did not divulge in his proposal information relating to his suffering from Pulmonary Tuberculosis in the pre-proposal period. The complainant contested this decision, pleading that her husband never suffered from Tuberculosis.

All the documentary evidence was collected and both the contending parties heard. The same points were reiterated by the parties once again during personal hearing. Though the Insurers did bring forth evidence that there was existence of Tuberculosis, the records were not complete to have a proper case study. The Insurers were directed to revert to this forum with complete details of hospital treatment. The Insurers collected and produced before this forum fuller details of treatment from Apollo Hospital, Chennai alongwith further details from the doctor who treated the assured earlier and referred to Apollo Hospital. A perusal of case records revealed that the assured was a chronic patient of Pulmonary Koch's Infection right from 1993 and was treated by Dr. R. Balasubrahmanyam of Chennai before being referred to Apollo hospital, Chennai. Many investigations were conducted in Apollo Hospital, which unambiguously held that the assured was a case of Pulmonary Tuberculosis. The medicines prescribed were of a high dosage pointing markedly to the severity of the ailment. It was further recorded that the assured was irregular in his treatment. It was argued by the complainant that the real cause of death of the assured was 'Sudden heart attack' only. The death took place within 2 years of taking the policy and repudiation action was also taken well within that period and Sec. 45 of Ins. Act was not applicable in its entirety in this case in that Insurers need not prove knowledge and fraud on the part of the policy holder. The insurers could clinchingly establish with the help of reliable documentary evidence, material suppression in the proposal. Hence this forum decided that there was no need to interfere with the Insurers' decision to repudiate. It was held by this forum that no nexus need be established between the ailments suffered from and the cause of death and it is sufficient if material suppression is proved.

This forum relied on the judgements of Maharashtra State Consumer Disputes Redressal Commission, Mumbai in L.I.C. of India vs Smt. Subhadra Domaji Bhele and of the National Commission in Ajay Prakash Mittal vs L.I.C. of India, where the Honble forums held that no nexus need be established and mere material suppression is enough to set aside the contract.

The repudiation upheld and the Complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2406 / 2004 - 05
Shri. K. Perumal
Vs.
Life Insurance Corporation of India

Award Dated 02.02.2005

Shri K. Perumal, the nominee under a policy of life insurance on the life of his wife Late P. Rameshwari complained to this forum that the Insurers, L.I.C., Madurai Division repudiated his claim on his wife's policy alleging material suppression of information in her proposal. The Insurers contended that the assured suffered from chronic renal failure before proposing but did not reveal the said vital information in the proposal, leading to their repudiation of the claim. This decision was challenged by the complainant.

The relevant case records have been called and perused. The contending parties have been called for a personal hearing and their pleadings recorded. A careful study of entire documentary evidence and oral submissions revealed that the insurers had based their decision of repudiation on a Medical Attendant's Certification in Claim form 'B' given by Dr. K. Senthil of Madurai Medical College, Madurai. In the said certificate, the doctor mentioned the cause of death of the assured as Chronic Renal Failure and Uremia. He did not furnish any further details as to from when the ailment was persisting, the course of treatment etc. Further as an answer to other relevant questions he pointed out that he was the usual medical attendant of the assured for the past 6 months and during that period treated the assured for minor ailments like respiratory infection, that too only on two or three occasions. The doctor also gave a letter in which he further clarified that he treated the assured for about 6 months for minor ailments like Upper and Lower Respiratory infections. There was no other medical evidence available in the case file to throw any light on the pre-existence of the ailment renal failure. It was also not clear as to how the doctor arrived at his diagnosis during terminal illness that the ailment which caused death was Chronic Renal Failure, in the absence any supporting evidence such as investigation reports or particulars of course of treatment for such a chronic ailment etc. The Investigating Officer of L.I.C. also in his report could not adduce any additional evidence which could give credence to the theory of pre-existence of kidney ailment.

In the absence of any tangible evidence to conclusively establish the existence of ailment chronic renal failure by the insurers, their contention that there was material suppression in the proposal was held to be factually and legally untenable. As such the repudiation decision was set aside and the insurers directed to make payment of claim under then policy to the complainant.

The Complaint is allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2480 / 2004 - 05
Shri M. Selvam
Vs.
Life Insurance Corporation of India

Award Dated 03.02.2005

Shri M. Selvam, the nominee under LIC policy no. 742710664 on the life of his wife Smt. S. Geetharamani, preferred a complaint to this Forum against repudiation of death claim under the policy on ground of suppression of treatment for uterus problem and hysterectomy underwent, prior to proposing for insurance. The policy for Rs. 50,000/- commenced on 28.8.2000. The life assured died on 30.1.2003 after committing suicide.

A personal hearing was held. The complainant contended that his wife did not undergo any uterus removal surgery but for removal of tumour only and in support cited the post - mortem report which stated that the uterus was normal. The Insurer contended that as per the records of Govt. Hospital, Madurai, the life assured had undergone Vaginal Hysterectomy prior to proposing for insurance, but did not disclose the same at the time of taking the policy and pointed out that the life assured committed Suicide by consuming poison as a result of unbearable pain she continued to suffer from uterus problem. A perusal of records evidenced that the life assured did undergo vaginal hysterectomy and sample was also taken for biopsy hence the post-mortem report which made a normal study

of uterus was worthy to be ignored. However the Insurer did not make available fuller particulars of further treatment underwent by the life assured. The available records did not point to any malignancy. The investigating official attributed the cause of death to estranged family relations. The Insurer could prove material suppression only, but had failed to prove fraudulent suppression and thus satisfy with irrefutable evidence the stipulations of Section 45 of the Insurance Act. Hence the repudiation of full claim monies was not held justified and the Insurer was ordered to pay 75 % of the basic sum assured and 75 % of Bonus, payable under the policy. The decision of the Apex Court of India in Mithoolal Nayak vs LIC was relied upon.

The claim was partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.04.2488 / 2004 - 05
Smt. V. Manoranjitham
Vs.
Life Insurance Corporation of India

Award Dated 04.02.2005

The complaint from Smt. V. Manoranjitham nominee under the policy no. 742310819 on the life of her husband Late K. Velu was against repudiation of death claim by LIC Madurai Divisional Office alleging suppression of material information on health relating to pre-revival period.

A personal hearing was held and documents perused. The policy for a sum of Rs. 1 lakh commenced on 28.5.1999. The policy lapsed due to non-payment of premium and was revived on 30.11.2001 on the strength of a declaration of good health. The life assured died on 23.12.2001. The extensive hospital records produced by the Insurer established that the life assured was diagnosed to be suffering from Carcinoma Bladder as far back as 1996 itself on the basis of various tests. There was also hospitalisation and continued treatment for Cancer during pre-revival period. The material information was not divulged at the time of revival, leading to conclusion of fraudulent suppression of material information, satisfying stipulations of Section 45 of the Insurance Act.

The decision of LIC to set aside revival and repudiate the claim under the policy was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.03.2489 / 2004 - 05
Smt. J. Shanthakumari
Vs.
Life Insurance Corporation of India

Award Dated 04.02.2005

Smt. J. Shanthakumari nominee under the policy no. 762803850 on the life of her husband Late A. R. Joseph Sundraraj, preferred a complaint to this Forum against repudiation of death claim by LIC Coimbatore Division. Her appeal to the Zonal Claims Review Committee was also rejected.

A personal hearing was held and the documents perused. The policy for a sum of Rs. 31,000/- commenced on 28.2.2001. The policy lapsed due to non-payment of premium and was revived on 11.2.2003 on the strength of declaration of good health of the life assured. The assured died on 19.3.2003 due to Brain Haemorrhage and Hypertension. The hospital records produced by the Insurer evidenced that the life assured was hospitalised and had received treatment for various ailments like Chronic Renal Failure, Hypertension, Hemiparesis and haemorrhage in brain, during pre-proposal period. There was fraudulent material suppression by way of non-disclosure of material information at the time of revival and clear breach of utmost good faith on the basis of documentary evidence on record.

The repudiation decision was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2448 / 2004 - 05
Smt. S. Veeralakshmi
Vs.
Life Insurance Corporation of India

Award Dated 09.02.2005

Smt. S. Veeralakshmi, nominee under 3 LIC policy nos. 741167543, 320354140 and 320737690 for a total sum assured of Rs. 40,000/- on the life of her husband K. Santhanel (Late) complained to this Forum against the decision of LIC to set aside the revival for suppression of material information relating to health in the declaration of good health submitted at the time of revival. LIC had however offered to settle paid up value including bonus acquired prior to revival under 2 policies plus an exgratia of Rs. 5,000/- under all the 3 policies. The complainant prayed for settlement of full sum assured plus bonuses on compassionate grounds.

A personal hearing was held and the documents produced perused. The hospital records revealed that the life assured was treated for complaints of Chronic Dysentery, Loss of appetite and fever and was diagnosed as HIV+ve. The life assured continued his treatment at Tambaram Sanatorium for the said ailments and Pulmonary Tuberculosis. This pre-revival diagnosis of HIV+ve infection and related ailments was not divulged at the time of revival in the personal statement regarding health constituting serious breach of principle of utmost good faith on which the contract of insurance rested.

The insurer's repudiation decision and his offer to settle paid up value together with an exgratia of Rs. 5,000/- to the complainant was not interfered with and the complaint rejected.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2476 / 2004 - 05
Smt. J. Amulu
Vs.
Life Insurance Corporation of India

Award Dated 28.02.2005

Late M. Jayaraman of Cheyyar in Tamilnadu insured his life with LIC of India, Cheyyar Branch under policies bearing nos. 731356767 and 732205064 for a sum of Rs. 50,000/- each on 10.02.2001 and 20.09.2001 respectively and nominated his wife Smt. J. Amulu under the policies. He died on 01.03.2002 due to Brain Stem Infarction and Sudden Cardiac Arrest. The Complainant's claim for policy monies was repudiated by LIC on 22.05.2003 alleging material suppression. The said decision was challenged before this forum.

All the case records have been called and perused. A personal hearing of both the contending parties was arranged. LIC brought forth evidence in the form of two hospital cards wherein it was mentioned that the assured was attending the hospitals as an out-patient for treatment of tuberculosis. No further details such as duration of ailment, the course of treatment were available to ascertain the severity of the ailment. There was one blood report, which mentioned that his blood sugar reading was high. But again there was no further information available as to the duration of diabetes and course of treatment availed to ascertain its materiality. Even the claim forms such as Medical Attendant's Certificate made a mention about diabetes, there was no detailed information as to for how long the disease subsisted etc.

Out of these two policies, one policy attracts provisions of Sec. 45 of Insurance Act, enjoining upon the insurer the additional responsibility of proving fraudulent intention and

knowledge on the part of insured apart from material suppression. Even though material suppression was there, it could not be proved by the insurer with concrete documentary medical evidence that the assured suppressed the information fraudulently. As such, the claim under this policy was allowed setting aside repudiation. On the other policy, where the claim was repudiated within 2 years, it was held that material suppression was proved and hence repudiation upheld.

The Complaint is partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.01.2517 / 2004 - 05
Smt. V. Shanthy
Vs.
Life Insurance Corporation of India

Award Dated 08.03.2005

The complaint from Smt. V. Shanthy is against repudiation of death claim under LIC policy for Rs. 1.03 lakhs on the life of her husband Late K. Vasudevan. LIC contended that the life assured was a Chronic alcoholic as per hospital records and that the life assured had committed suicide within 1 year of taking the policy attracting exclusion clause. The complainant denied both the contentions of LIC and submitted that her husband died of sudden heart attack due to family problems.

A personal hearing was held and documents perused. The enquiries conducted and evidence obtained from neighbours during investigation did reveal that the life assured was addicted to drinking. Non-disclosure of the same to the pertinent question in the proposal for insurance did constitute material suppression. But the Insurer could not adduce any proof in support of his theory of Suicide. To ensure equity and natural justice LIC was ordered to pay 50 % of the sum assured i.e. Rs. 51,500/- as Ex-gratia under the policy.

The complaint was partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2490 / 2004 - 05
Smt. R. Padmavathi
Vs.
Life Insurance Corporation of India

Award Dated 08.03.2005

Smt. R. Padmavathi, nominee under 3 policies issued by LIC on the life of her husband Late D. Raja complained to this Forum against repudiation of death claim monies on ground of suppression of material information that he already held 3 policies but did not disclose the same at the time of proposing for subsequent policies of insurance.

A personal hearing was held and documents perused. The Insurer contended that had the 3 earlier policies been disclosed, LIC would called for special medical reports and thus opportunity to properly assess the risk was denied to LIC impinging upon their underwriting decision. The complainant contended that it was the Agent's responsibility to disclose information about previous policies. As per LIC's underwriting manual provisions an ECG would have been necessary since the sum under consideration exceeded Rs. 1 lakh while applying for the 4th policy of insurance and to that extent there was a clear material suppression. However, LIC did not place on record any proof of pre proposal illhealth of the life assured, in the absence of which fraudulent material suppression could not be construed as Section 45 was wholly operative.

The complaint under all 3 policies was allowed. In view of technological advancements, LIC was advised to take IT initiatives for ascertaining position of previous policies on their own.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.01.2248 / 2004 - 05
Smt. Uma Ashok

Vs.

Life Insurance Corporation of India

Award Dated 08.03.2005

The complaint from Smt. Uma Ashok is against repudiation of claim for full sum assured with bonuses under 4 policies on the life of her husband Late S. Ashok for suppression of material information in the proposals for insurance that the life assured was a known diabetic for 10 years and he was also a Chronic Alcoholic as per hospital records. LIC had offered to settle paid up value under the first 3 policies.

A hearing was held. The complainant agreed that her husband was a diabetic and alcoholic but there was no intention on the part of life assured to suppress any material information with intention to cheat LIC since her husband was never hospitalised and his blood sugar was well under control. Insurer relied upon Certificate from hospital that the life assured was a diabetic / alcoholic prior to revival. Insurer stated that while taking the 4th policy of insurance, the life assured did not disclose about his previous lapsed policies and had the same been disclosed, LIC would not have granted a fresh insurance at all.

The records perused revealed that there was no evidence other than the mortality summary issued after death of the life assured stating that the life assured was an alcoholic / diabetic. The sugar readings were normal indicating that his diabetes was well under control. Hence the repudiation decision under first 3 policies on ground of fraudulent suppression was not held proved as per the stipulation of Section 45. so far as 4th policy was concerned, it was held that there was material suppression by non-disclosure of his previous policies, which were also in a lapsed condition.

The complaint under first 3 policies for full sum assured plus bonuses allowed. The complaint under the last policy was rejected by upholding of repudiation decision.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.07.2453 / 2004 - 05
Smt. S. Mala

Vs.

Life Insurance Corporation of India

Award Dated 08.03.2005

Smt. S. Mala has represented to this Forum against repudiation of death claim under the policy on the life of her son Late S. Valathy and the offer of LIC to settle Rs. 25,000/- as Ex-gratia sum against her claim for full sum assured of Rs. 50,000/- plus bonus and accident benefit. The repudiation was on the ground that the life assured had physical deformity in his right hand which he did not disclose at the time of proposal for insurance.

A hearing was held. Documentary evidence perused. The Insurer contended as per FIR and Police Inquest Report, the life assured had deformity in his hand, resulting in his getting drowned in a river. Had the same been disclosed, LIC would have charged an extra premium. The complainant contended that the Police in an attempt to shield illegal sand quarrying mafia closed the file of her son's death as due to physical deformity. Actually her son died having been caught in a whirlpool formed due to gaping holes left in the riverbed due to indiscriminate sand mining. She stated that though her son had a stunted growth of his right hand, the same was not externally visible and he was carrying on all his duties with both his hands and was also employed in a local school as peon. She produced press cutting citing the hazards of illegal sand mining caused in the riverbed. Photographs of her son were also produced to vindicate the stand that her son had no physical deformity.

Since the life assured died due to drowning, an accidental death and his physical deformity was very minor which did not in any way incapacitate him from discharge of duties and the Insurer would have even otherwise granted him insurance by charging only a small extra, it was held that there was no material suppression.

The claim was fully allowed for full sum assured together with accident benefit.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2524 / 2004 - 05
Smt. D. Reeta
Vs.
Life Insurance Corporation of India

Award Dated 08.03.2005

Late B. Victor took a LIC policy for Rs. 1 lakh on his life as per proposal dated 28.7.1999. He nominated his wife Smt. D. Reeta. The policy lapsed due to non-payment of premium and was revived on 7.2.2001. He died on 26.3.2002 due to viral fever and vomiting. The claim was repudiated setting aside the revival for suppression of pre-revival illnesses like Amoebic Colitis, Diabetes Mellitus and Hypercholesteremia.

A hearing was held and the documents perused. The Insurer has repudiated the claim on the basis of prescription slip dating to pre-proposal period and the medical opinion of their Divisional Medical referee that the medicines therein were prescribed for treatment of serious ailments. The complainant contended that her husband was in good health and that the prescription slip relied upon by LIC to repudiate claim did not pertain to her husband but to her own treatment as the name of the patient on the prescription slip was Mrs. Victor only. She produced similar such prescription slips to the effect that she herself was taking treatment from the same hospital.

The Insurer did not produce any hospital records of treatment underwent by the life assured except a confirmation from the hospital that prescription slip pertained to treatment given to a male patient. Hence the Insurer's allegation of material suppression was not held proved.

LIC decision to set aside revival was interfered with and the complaint was allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.02.2424 / 2004 - 05
Smt. U. Suganthi
Vs.
Life Insurance Corporation of India

Award Dated 09.03.2005

The complaint from Smt. U. Suganthi is against repudiation of claim for full sum assured for suppression of pre-proposal ailments under the 3 policies on the life of her husband Late E. Udhayakumar. LIC had however settled Rs. 25,000/- as Exgratia sum under all the 3 policies put together.

Documentary evidence perused and a personal hearing held. The complainant stated that her husband consumed alcohol occasionally and had taken treatment for stomach pain only. The Insurer produced medical record from the employer's hospital for a week's hospitalisation and treatment for Alcoholic Gastritis. No further evidence of treatment, if any, was made available, proving that the treatment was on a solitary occasion. Moreover, there was no adverse leave history. Section 45 was applicable under all the 3 policies and the Insurer had failed to prove fraudulent material suppression with irrefutable evidence.

The repudiation decisions set aside and the complaint allowed for full sum assured plus bonuses under all the 3 policies.

Chennai Ombudsman Centre

Case No. IO (CHN) / 21.08.2509 / 2004 - 05
Shri J. Sivashankar
Vs.

Life Insurance Corporation of India

Award Dated 09.03.2005

The complaint from Shri J. Sivashankar was against repudiation of death claim under the policy on the life of his wife Smt. J. Anusuya for suppression of material information that she was suffering from Bronchial Asthma for past 10 years and took treatment for the same but did not disclose that material fact at the time of proposing for insurance.

Documents perused and hearing was held. The medical book and certificates obtained from the hospital run by the employer himself, produced to this Forum, testified to the fact that the life assured had suffered from Poly Arthritis, Fibroid and that she was a known case of Bronchial Asthma for 10 years and also a known case of Hypertension and Diabetes Mellitus but not on regular treatment. The death was also of the same ailments. The life assured also underwent various diagnostic tests like blood, X-ray and ECG. The life assured did not disclose the pre-proposal ailments and the tests underwent at the time of proposing for insurance and hence material suppression was held proved.

The repudiation decision upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.05.2547 / 2004 - 05
Smt. M. Dhanalakshmi
Vs.

Life Insurance Corporation of India

Award Dated 09.03.2005

Late N. Manivannan took a LIC policy on 25.11.1985. He nominated his mother Smt. M. Dhanalakshmi. The policy remained lapsed due to non-payment of premium due from 25.11.1991. The life assured died on 15.6.1993. LIC refused to settle full sum assured under the lapsed policy but offered to settle Paid up Value since premiums were paid for a minimum period of 3 years.

The records were perused. As per the policy conditions, the policy continued to be in force even if premiums were unpaid provided death took place within 1 year of first unpaid premium. In this case, death of the life assured took place more than 1 year after lapse and hence claim could not be considered under relaxed claims concessions clause. Hence the decision of the Insurer not to settle sum assured but only the paid up value is in tune with policy conditions and the same is upheld.

The complaint is dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.03.2528 / 2004 - 05
Smt. G. Suratha
Vs.

Life Insurance Corporation of India

Award Dated 09.03.2005

Smt. G. Suratha, wife of Late Shri R. Hariharasubramanian complained to this Forum against rejection of claim for full sum assured under the Jeevan Shree policy on the life of her husband. LIC had offered to settle paid up value.

The records were perused. The policy commenced on 28.1.2002. The premiums were paid upto the quarterly premium due 28.1.2004 and since further premiums were not paid, the policy remained lapsed from 28.4.2004. The life assured died on 11.6.2004. The complainant contended that full sum assured should have been settled applying Chairman's relaxation rules as death had taken place within 1 year from the date of lapse. But LIC Central Office Circular dated 18.10.1999 expressly excluded interalia Jeevan Shree policy

also from the purview of these relaxations. Hence the request of the complainant for conferring claims concession on this policy was not found possible as LIC's rules did not provide for the same.

The Insurer's stand to settle paid up value was in tune with the policy conditions and hence the complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2415 / 2004 - 05
Smt. T. Mageswari
Vs.
Life Insurance Corporation of India

Award Dated 18.03.2005

Smt. K. Kuppu took an LIC policy for Rs. 50,000/- on 11.3.2003 and nominated Smt. T. Mageswari her daughter thereunder. She died on 10.8.2003 and the cause of death was chest pain. The claim was repudiated by LIC for suppression of material information pertaining to pre-proposal ill health. The decision was upheld by the Zonal Claims Review Committee also.

Records perused. Heard the Insurer. Complainant not present for hearing. The discharge summary of terminal illness spoke of previous history of heart ailments and stated that the life assured was diagnosed to have heart problem 2 years ago. However the Insurer could not produce the evidence of treatment availed prior to proposing for insurance. Hence material suppression was not held proved and the repudiation decision was set aside.

The complaint was allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2516 / 2004 - 05
Smt. P. Pichaiammal
Vs.
Life Insurance Corporation of India

Award Dated 18.03.2005

The complaint from Smt. P. Pichaiammal appealed against repudiation of death claim under the 2 policies each for a sum of Rs. 50,000/- on the life of her husband Late P. M. Palanisamy.

Records perused and parties heard. The policies commenced in 1998 and 2000. The life assured died in 2001 and repudiation decision was taken in 2003. Hence Section 45 was applicable. The records of pre-proposal outpatient treatment in 1996 and 2001 revealed that the life assured had chest pain on exertion and was an alcoholic and hypertensive and was diagnosed as case of Myocardial Infarction due to LV dysfunction. To that extent there was certain suppression of material information. However the Insurer could not produce records of continued treatment and failed to satisfy the stipulations of Section 45 of the Insurance Act. To ensure natural justice to both the parties, Exgratia was allowed to the tune of 50 % of basic sum assured under both the policies.

The claim was partly allowed.

Chennai Ombudsman Centre
Case No. IO (CHN) / 21.08.2463 / 2004 - 05
Smt. G. Kotteswaran
Vs.
Life Insurance Corporation of India

Award Dated 30.03.2005

Smt. K. Tamilselvi took a LIC policy for Rs. 50,000/- on 28.12.2002. She nominated her husband Shri G. Kotteswaran under the policy. She died on 5.2.2004 due to heart attack. The claim was repudiated for suppression of pre-proposal illhealth.

Documents perused and parties heard. The complainant accepted that his wife had undergone hospitalisation and surgery prior to proposing for insurance, but contended that the same was within the knowledge of the Agent who only filled up the proposal form. The hospital records evidenced that the life assured had history of Dyspnoea for several years, was diagnosed as a case of Rheumatic Heart Disease and surgery performed in 1997, 5 years prior to proposing for insurance. The material information was not disclosed in the proposal in the absence of which the Insurer could not assess the risk properly. Material suppression was proved on the basis of irrefutable evidence on record and the repudiation decision of the Insurer was upheld. Reliance was placed on the decision of National Commission in LIC of India vs Gowri & Ors in F.A.No. 1993 NC that Agent while filling up the proposal from acts the Agent of the insured and not of the Insurer.

The Complaint dismissed.

Delhi Ombudsman Centre
Case No. LI – JD / 57
Smt. Annapurna
Vs
Life Insurance Corporation of India

Award dated 07.10.2004

Facts of the case : Smt. Annapurna filed a complaint before this Forum. Her complaint was against LIC of India, Divisional Office, Jodhpur. Her husband late Shri Hemant Kumar Trivedi has taken a policy No.182405098 for sum assured of Rs. 2,00,000 on 28.03.2003. Before taking this policy, he was also having another policy No. 101157837 for Rs. 3,00,000 taken on 28.12.2001 which was in lapsed condition on 28.03.2003. He has not mentioned the above policy in the proposal form while taking the Policy No. 182405098. The life Insurance corporation of India repudiated the claim on the grounds of non-disclosure of this fact. Hence, this complaint to this forum.

Observations & Decision : After hearing both the parties and after careful consideration of the facts of the case, I am of the view that LIC has no valid ground for repudiating the claim of the complainant. The reason for repudiation given in LIC's letter of repudiation dated 31.03.2004 addressed to the complainant is that in the proposal for insurance which formed the basis for the Jeevan Rekha policy taken by the life assured in March,2003, Policy No.182405098, from which the present dispute has arisen, he had not disclosed details of the policies taken by him earlier.

In my view, there is no substance in the ground taken by LIC in the said letter of repudiation. The proposer is not obliged to disclose information which is already in the knowledge of LIC. LIC should know what policies the life assured had taken earlier. Evidently, LIC has no information system by means of which this information can be readily retrieved. However, this is no excuse for LIC abdicating its own responsibility in the matter. What LIC is saying, in effect is this; "We have the information about your earlier policies. However, we cannot get this information quickly. We have neither the time nor the inclination to gather this information. We shall, therefore, hold you responsible for any omission". This is not a responsible attitude on the part of LIC.

It is the duty of every prudent insurer to verify all the information given by the proposer in the proposal form, even if the means of verification are difficult. Information relating to earlier policies taken is certainly very important, specially for determining the risk that LIC is assuming. LIC certainly cannot rely on the principle of utmost good faith in this case. It should verify the information. If the means of verification are difficult then LIC should obtain a separate affidavit in this matter from the proposer.

Now that the worst has happened to the life assured, LIC is merely ,trying to evade its liability by finding fault with the proposal form. This is not acceptable.

In the result, therefore, Honourable Insurance Ombudsman passed the Award that Life Insurance Corporation of India shall pay to Smt. Annapurna, the mother of the life assured and the nominee named by the life assured in his Jeevan Rekha Policy No. 182405098, all the death benefits due to her under the said policy.

Delhi Ombudsman Centre
Case No. LI – DL – 1/99
Shri Manohar Lal
Vs
Life Insurance Corporation of India

Award dated 29.10.2004

Facts of the Case : The facts of the case may be stated briefly. The complainant's father late Shri Devsi Ram, purchased a life insurance policy (No. 112178715) for sum assured of Rs. 1,00,000/- in August, 1997. The policy commenced on 15.04.1997. After paying the first annual instalment of premium the life assured was unable to keep the policy on foot. The policy, therefore , lapsed due to non-payment of premium. However, the policy was revived on 17.04.2001. The life assured died on 24.04.2001 (a week after the revival). The complainant, Shri Manohar Lal, is the nominee named in the policy. He had claimed the death benefits due to him under the policy. LIC has repudiated the claim, vide their letter dated 11.06.2003 addressed; to the complainant. The reason for repudiation given in the said letter is as follows :

"On going through claim papers and investigations we came to know that at the time of revival he was not well and had suffered from Asthma, DM & T.B. for which he took medical treatment in a Hospital prior to revival. The competent authority has, therefore, declared the revival dated 17.04.2001 as void and all moneys paid towards revival of the policy and subsequent thereto belong to us".

Observations of Hon'ble Insurance Ombudsman

The reason given by LIC for repudiating the claims does not bear scrutiny. There is no concrete evidence at all to show that the complainant was afflicted with Asthma, Diabetes and T.B. for which he had undergone treatment in a hospital. The LIC officer who has investigated the claim has picked up gossip from here and there. He has not gathered any concrete evident to show that the life assured was suffering (or had earlier suffered) form Asthma, Diabetes and T.B.

A statement from one Dr. S. Kumar, who runs a clinic (Janta Dwakhana) in Jhangir Puri, has been obtained. It is dated 24.04.2001. The doctor says that the life assured was brought to his clinic on 23.04.2001 in the night with complaint of loose motion, fever etc. The doctor had almost closed his clinic for the day. He probably asked that the life assured be brought to him the next day. The next day (24.04.2001), the life assured was again taken to the clinic where he was given some conservative treatment by the doctor. The life assured died the very same day.

There is nothing in Dr. Kumar's statement to indicate that the life assured was suffering (or had earlier suffered) from Asthma, Diabetes and T.B. There is a subsequent statement by Dr. S. Kumar, which is dated 09.01.2003 in which the doctor says that the life assured had told him that he had an Asthma problem. No weight can be given to the statement of Dr. S. Kumar. In neither of the two statements made by him he says that the had himself treated the life assured for Asthma or Diabetes or T.B.

Apart from the statement of Dr. S. Kumar, LIC does not have a scrap of evidence to support the reason given by them for repudiating the claim of the complainant.

In short, LIC has no valid ground at all in his case for repudiating the claim of the complainant. LIC has also no valid reason for declaring the revival of the policy as void. The evidence gathered by LIC is at best hearsay evidence based on village gossip and is, therefore, thoroughly unreliable and unacceptable. It would be unjust and unfair to repudiate the claim of the complainant on the basis of non-existent evidence.

In the result, Hon'ble insurance Ombudsman passed the Award that Life Insurance Corporation of India shall pay to Shri Manohar Lal, the complainant and the nominee named by his late father, Shri Devsi Ram, in his policy (No. 112178715) all the death benefits due to him under the policy, which will include the full sum assured of Rs. 1,00,000/ together with all accrued bonuses.

The Award shall be implemented immediately.

**Delhi Ombudsman Centre
Case No. LI – DL – I / 120
Shri. Om Prakash Mahawar**

Vs

Life Insurance Corporation of India

Award dated 10.12.2004

Facts of the case : The policy in this case was taken by the complainant's wife, Smt. Juli Mahawar. The policy commenced on 15.05.1998. It lapsed on 15.05.2002 due to non payment of premium. It was revived on 25.02.2003. The policy was revived on the basis of a personal statement (declaration of good health) made by Smt. Juli Mahawar. In the personal statement, she had suppressed the fact that she had undergone six months' treatment for tuberculosis. This was a material fact from the point of view of LIC. Smt. Juli Mahawar ought to have disclosed this fact to the LIC. She might have been cured of tuberculosis at that time but she ought to have disclosed the fact in any case. She failed to do so and thereby violated the duty of disclosure and the principle of utmost good faith. It is true that before revival she was also medically examined. In the confidential report of the medical examiner, there is nothing adverse. But this report does not contain any question regarding tuberculosis. The report has, therefore, to be read in conjunction with the personal statement made by Smt. Juli Mahawar. A little more than two months after revival of the policy Smt. Juli Mahawar died. She died because of tuberculosis. Because of this, the fact of her having undergone anti-tubercular treatment becomes all the more material in this case.

Observations of Hon'ble Insurance Ombudsman

In the Circumstances, Hon'ble Insurance Ombudsman sees no reason to interfere in the decision of LIC to repudiate the claim of the complainant.

In the result, Hon'ble Insurance ombudsman dismisses the complaint.

**Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 91 /03-04 / GHY
Mrs. Rani Chutia**

Vs.

Life Insurance Corporation of India

Award Dated 06.10.2004

Facts : One late Utpal Chutia was a policyholder of 2 policies of Rs. 1,60,000/- & Rs. 50,000. On his death his wife perferred the death claim on 24.02.04 before the insurer which was repudiated by the insurer/opposite on 14.012.03. The policyholder died on 01.02.2003 due to cardio vascular accident & the duration of the policies were 6 months & 3 days only. The cause of repudiation was suppression of illness of various diseases suffered by the DLA next before the date of commencement.

Findings : The claimant vide her letter dtd. 24.02.2004 addressed to the Insurance Ombudsman, Guwahati would submit that the concerned LIC agent “in-put all the questions regarding the medical ground & answered as ‘NO’ and ‘NO’.” It appears that Jorhat Divisional Office of the LIC in its ‘claim inquiry report’ stated that the claim is not bonafide & opined that there was suppression of material facts. A statement of leave on medical ground was procured by opposite party. It will be seen from the leave statements that the policyholder was suffering from various illness prior to date of commencement of the policy (Evidence discussed). Thus, it will be seen that before he got admitted into the hospital next before his death the policyholder (DLA) was suffering from headache & giddiness & this symptom of disease / illness was available much before the date of commencement of the policy, i.e., w.e.f. 09.06.1998. The extract of nature of illness would show that the policyholder had severe illness of giddiness & mild hypertension, Urinary infection etc. which are material in deciding the risk question & these facts were suppressed while filling up the forms. It cannot be argued that the agent filled up the form without consulting the policyholder as contended by the claimant. The complainant has failed to file any other document, which would have been helping her in getting benefit in this case.

Result Complaint dismissed.

Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 09 /04-05 / GHY
Smt. Dipali Gogoi
Vs.
Life Insurance Corporation of India

Award Dated 19.10.2004

Facts : Contention of the complainant was that the repudiation of her claim by the insurer/opposite party is not acceptable to her. She however, filed no document in support of her claim.

Contention of the opposite party was that there was suppression of history of earlier illness by the policyholder (DLA) while submitting the proposal form. That it has been revealed that on the very date of signing the proposal form the DLA was on sick leave due to illness & accordingly, there is nothing wrong in repudiation of the claim.

Findings : It appears that all the queries made by the questions in column no. 11 of the proposal form regarding the present & past health condition of the proposer asked by the opposite party were answered in negative, stating there-upon that the DLA (Proposer of the policy) had not suffered from any ailment or disease next before the date of submitting the proposal. The medical certificate collected by the opposite party will show that the DLA Cheniram Gogoi was admitted in OIL Hospital on 5.2.2000 and he was referred to Damani Nursing Home, Dibrugarh, wherefrom he was discharged with endorsement ‘not improved’ on 10.03.2000. In the same certificate under the column 10 as answer to the question. “Was he treated in hospital on pre occasion ?” it was mentioned that he was so treated on 51.09.96 - 23.10.96/ 8.11.96 - 17.11.96, 22.12.99 - 07.01.2000 for convulsive disorder / contusion / cirrhosis of liver. This is also supported by the leave record which shows that he was enjoying sick leave from 28.12.99 to 10.01.2000. It will be significant to note that he submitted proposal form on 18.12.99 when he was under sick leave for 21 days. With similar symptoms he was admitted in Duliajan Civil Hospital on 10.03.2000 & expired on 19.03.2000. Therefore, the opposite party has been able to show that there was fraudulent suppression of material fact regarding health of the policyholder & accordingly repudiation of claim was justified. It had been shown that the disease which ended his life had similar signs and symptoms with which he suffered earlier.
The complaint stands dismissed.

Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 07 /04-05 / GHY

Smt. Lakshi Devi
Vs.
Life Insurance Corporation of India

Award Dated 18.10.2004

Facts : The complainant claimed that the order of repudiation of her death claim by the opposite party is not acceptable to her as the proposal for insurance submitted by her husband was accepted by LIC, Guwahati D.O. (Opposite Party) after proper medical examination & fulfillment of all other requirements etc.

Contention of the Opposite party is, however, that there was suppression of material facts by the proposer (DLA) while filling up the proposal form & accordingly it was a clear case of malafide intention to defraud the corporation. Hence, the opposite party had to repudiate the claim.

Findings : From the records it is seen that the policy continued for a period of about one & half years. At the time of submission of proposal form, the age of the DLA was given as 61 years. All the queries in the proposal form in item no. 11 requiring informations about health of the proposer were answered in negative by the proposer. But on his death, the LIC procured medical attendants Certificate, claimant's statement, Certificate of hospital treatment & Certificate of identity & burial or cremation etc. In these documents it was clearly mentioned that the policy holder (DLA) had earlier history of 'stroke' in the year 1994. onwards & he was a patient of Hypertension & Diabetics mellitus since 1994. He died of similar disease on 25.09.03 being admitted into the hospital on 21.09.03 which similar symptom of recurring 'Stroke' etc. Suppression of such material facts cannot be treated as innocent mistake. Rather, it had the elements of fraudulent intention. Hence, there was absence of utmost good faith on the part of the proposer and the contract is vitiated by practice of fraud. Held no scope to interfere with the decision arrived at by the opposite party.

Complaint dismissed.

Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 11 /04-05 / GHY
Mrs. Laxmi Prasad
Vs.
Life Insurance Corporation of India

Award Dated 19.10.2004

Facts : Husband of the claimant had a policy purchased on 28.03.1997 assuring a sum of Rs. 50,000/- for his life and expired on 20.02.99. The death claim was preferred but repudiated on 1.06.2000.

LICI repudiated the claim stating that there was suppression of past history of illness prior to commencement of the policy.

Findings : All queries vide items no 11 of the proposal form with respect to present and past health conditions of the proposer asked by the Insurer (LICI) were answered in negative by the proposer to say that the proposer DLA (deceased life assured) had not suffered from any ailment or disease next before the date of submitting the proposal for assurance. Certificate and reports of medical officer procured by LICI will show that late Kashi Prasad (DLA) was suffering from Acute Asthama from 15.11.94 to 25.11.94 and from 03.11.95 to 11.12.95 he was suffering from Asthama Bronchus with left renal problem etc. Therefore, LICI has been able to show that there was fraudulent suppression of material facts regarding health of the policyholder (DLA). Thus, repudiation was justified.

Complaint dismissed.

Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 30 /04-05 / GHY

Mrs. Manju Agarwal
Vs.
Life Insurance Corporation of India

Award Dated 1.11.2004

Facts : The Claimant, Mrs. Manju Agarwal states that her husband died on 26.07.2002 suffering from Acute Lymphocytic Leukemia. On the death of her husband (i.e., DLA) she preferred her claim before proper authority of the opposite party but the claim was repudiated.

The Contention of the opposite party is that the claim had to be repudiated due to, non-disclosure of material facts. That a certificate issued by Dr. D.R. Sharma of Kalibari Raod, Dimapur (Nagaland) on 22.12.03 would show that DLA visited him on 16.3.02 complaining high fever, cough and bleeding P/A etc. for 3 to 4 months and accordingly there was a case of non-disclosure of ailment (material facts) on the date on which proposal for the present policy was submitted.

Issue : Whether repudiation is justified on given facts.

Discussions : Certificates of treatment procured by Branch Office Dimapuro of LIC show that DLA was admitted in hospital / consulted doctor 13.7.2002 with complain of fever , cough and bleeding P/A for 3 to 4 months and he died on 26.07.2002 while under treatment. There is no record of his hospitalization on any previous occasion before 13.7.02 as per materials placed by the opposite party. Dr. D.R. Sarma stated that policy holder consulted him for the first time on 16.03.2002 with "complain high fever, cough and bleeding P/R from time to time since last few months". Therefore, opposite party could not procure any medical report to say that earlier to 16.03.2002 the DLA had any knowledge of suffering from any serious diseases that may take away his life. That being so the DLA cannot be imputed with any case of Fraudulent intention to cheat the insurer although the policy continued only for about six months from D.O.C Dr. D. R Sharma in his report stated that DLA was treated initially by him and was advised to consult specialists. So, on 16.03.2002 even Dr. Sharma had no idea that the ailment may be fatal, not to speak of the DLA bearing any such idea. Concluding, it was held that the repudiation of death claim in question was improper.

Decision : Opposite Party was directed to settle the death claim and pay the sum assured.

Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 31 /04-05 / GHY
Mrs. Anupama Gogoi
Vs.
Life Insurance Corporation of India

Award Dated 3.11.2004

Facts :This complaint is directed against the decision of opposite party (LIC) repudiating claims under policies no. (i) 441160556 (ii) 441107399 and (iii) 441204322 on the ground of 'availing sick leave for serious diseases like respiratory infection and jaundice within 3 years of D.O.C. and having link with terminal, disease i.e. chronic hepatitis.

The Contention of the claimant is that her deceased husband was an employee of OIL India Ltd. an during lifetime he had purchased 13 L.I.C.I. policies. After the death of the policyholder LIC settle 10 policies and repudiated 3 LIC policies.

The contention of the opposite party/insurer is that on scrutiny of the papers submitted by the claimant it was established that the deceased LA was suffering from Respiratory Infection, multiple injuries etc. for which he was on medical leave from 28.07.97 to 14.09.97 and 02.06.98 to 09.06.98. The DLA did not disclose these facts in the proposal for assurance. Hence, in terms of policy contract the claim was repudiated.

Findings : It appears that on the same set of facts there was a pick and choose policy adopted by the insurer. The policies of the later period Nov./Dec. 2000 were settled allowing the claim but those of earlier periods of March/2000 and Sept/1999 were repudiated. There is absolutely no valid reasons to distinguish these three policies in question from the policies already settled because the disease of respiratory infection from which the DLA suffered was dated much earlier and from 2.6.98. to 9.6.98 (8 days only). Such a minor diseases would have little impact to impute any case of suppression of material facts with intent to defraud. Evidence discussed.

On evidence no valid and acceptable ground for repudiation could be established. The opposite party was directed to settle the claims immediately and pay the sums assured with 6% simple interest from the date of repudiation (31.03.2004) till the date final settlement.

Guwahati Ombudsman Centre
Case No. 21 / 01 / 0041/04-05 / GHY
Smt. Swapna Roy
Vs.
Life Insurance Corporation of India

Award Dated 08.11.2004

Facts : The complaint arose due to non-settlement of claim under the incomplete proposal no. 2305/498 dtd. 28.05.2003 for Rs. 1 Lac.

It is submitted by the opposite party that when the claim was raised by the complainant, as the proposal was not converted into policy, if incurred no liability and opposite party offered to the complainant to take refund of the initial deposit made by the proposer after deducting of RS. 50/- being the cost of medical examination.

Issue : Whether decision of LIC is correct.

Discussions and Decision : The documents collected show that during the pendency of the proposal, the proposer became a cancer patient which fact was not intimated to the opposite party though mandatory as per declaration given at the foot of the proposal form for assurance submitted. Under facts and circumstances as above, no interference in the decision of opposite party was called for.

Complaint was dismissed.

Guwahati Ombudsman Centre
Case No. L / LIC / 21 / 29 /04-05 / GHY
Dr. Dugdha Baruah
Vs.
Life Insurance Corporation of India

Award Dated 08.11.2004

Facts : Contention of the claimant is that on the death of the DLA he preferred his claim before the opposite party but the claim was repudiated by the opposite party on the basis of certificate of Gaonbura.

Contention of the opposite party is that the Gaonbura of the concerned village certified the age of the DLA alongwith the confirmation of the death of the DLA. There was under statement of age by the DLA at the time of submitting the proposal when such certificate is taken into consideration.

Issue : Whether the decision on the basis of the certificate issued by the member of the Panchayat is correct.

Discussions : There is nothing to challenge the authenticity of the age of the DLA given in school certificate. Moreover, the age in the present policy was recorded on the basis of the age already admitted on the other policy from the same proposer. It appears that there is

no ground to repudiate the claim on the basis of a report of a Gaonbura. Gaonbura has nothing to do in certifying the correct age of a person. The appropriate authority is either Registrar of births and deaths or school authority where DLA studied. The decision take by the opposite party is based on wrong assumption and prejudicial the DLA.

Decision : The opposite party was directed to settle the claim within 30 days and make payment accordingly failing of which on expiry of 30 days the claimant will be entitled to simple interest @ 9% p.a. till payment is made.

Guwahati Ombudsman Centre
Case No. L/ LIC / 21 / 27 / 04-05 / GHY
Smt. Niru Das
Vs.

Life Insurance Corporation of India

Award Dated 01.12.2004

Facts : The death claim before the opposite party, i.e. LIC, was repudiated on the ground of suppression of material facts regarding health of the DLA. The contention of the complainant is that the insured died on 06.04.02 and that the repudiation of the death claim was a wrong decision of the insurer/opposite party because the DLA purchased the policy when he was in good health and he never suffered from any serious illness but took medical leave sometimes either for old age diseases or diseases of family members.

The contention of the opposite party however, is that the DLA suppressed the history of illness at the time of submitting the proposal for assurance and as per evidence collected, he was on sick leave from 23.02.98 to 28.08.98 and on some other occasion, i.e. from 01.07.98 to 15.07.99, 13.09.99 to 26.09.99 and 27.10.99 to 30.11.99. That the DLA answered in negative all the queries as mentioned in item No. 11 of the proposal form (dt. 25.01.02) and therefore, he has lied for which the contract is not valid for want of good faith.

Issue : Was there any suppression of fact as alleged ?

Discussions : The Insurance Company collected certificate from senior Medical Officer, N.T.P.S. hospital, A.S.E.B., Namrup which will say that the DLA was suffering from "Traumatic perforation of Rt. t.m.e. otomycosis" and was treated at Assam Medical College, Dibrugarh during period from 23.02.99 to 28.08.99. Therefore, I find that the repudiation was done on valid ground and there was a case of suppression of history of illness at the time of submission of proposal for assurance by the DLA.

The complaint stands dismissed.

Guwahati Ombudsman Centre
Case No. L/ LIC / 24 / 02 / 04-05 / GHY
Md. Nur Alom
Vs.

Life Insurance Corporation of India

Award Dated 15.12.2004

Facts : Contention of the claimant is that his father late Abdur Rahman purchased policy No. 488125385 on 28.01.03 insuring his life for Rs. 40,000/-. That the insured died on 24.03.03 after a short ailment but in spite of meeting the demand of necessary documents the claim has not yet been settled.

Contention of the opposite party is that on the result of investigation it was revealed that DLA was suffering from Congestive Cardiac Failure since long and accordingly as per the terms and conditions of the policy contract and the declaration contained in the form of

proposal for assurance, the opposite party has no liability and accordingly they have decided to repudiate the claim.

Issue : Dispute is whether there was any pre-existing symptom of the disease of Congestive Cardiac Failure which ultimately ended the life of the policyholder.

Discussion : There is no disputed that the proposal for insurance was on his own life, submitted by DLA on 15.01.03 for the first time in his life at the age of 55 years and the policy was in continuation for 1 month and 26 days only. The medical attendant's certificate states that on 24.03.03 the DLA was admitted in the hospital with complaint of restlessness and uneasiness accompanied by chest pain etc. and in spite of treatment he died 6 hours later on the same day and disease was diagnosed as Congestive cardiac failure. (Evidence discussed). On a study of the opinion expressed by the attending doctor of the DLA and the DMR of the opposite party, we can find only an example of presumption that the disease which ended the life of DLA might be pre-existing at the time of submission of the proposal in question. There is no evidence that the DLA had knowledge of the disease and concealed / suppressed it with any ulterior motive. Repudiation of the claim was not done under any valid and acceptable ground.

Decision : Matter sent back for reconsideration with specified direction to follow, after investigation etc. as directed in the order for constitution of Medical Board etc, keeping it open for the claimant to approach again if still aggrieved.

Guwahati Ombudsman Centre
Case No. 21 / 01 / 0059 / L / 04 - 05 / GHY
Mrs. Pranita Das

Vs.

Life Insurance Corporation of India

Award Dated 17.02.2005

Facts : The husband of the complainant had a policy for Rs. 20,000/- and DOC was 28.03.1998. The policy lapsed from 12/2001 and was revived on 27.07.02. The policyholder died 6 days later on 02.08.02. Death Claim preferred was repudiated by the opposite party and agreed to pay only the paid up value.

The insurer state that the Life Assured revived the lapsed policy on 27.07.2002 on the strength of DGH with concealment of of material fact. Accordingly revival was set aside.

Issue : Whether setting aside of revival was correct.

The 'Medical Attendant Certificate' and the 'Personal Statement Regarding Health' of the DLA would show that there cannot be any dispute about the fact that the DLA was suffering from various diseases for one month next before 28.07.02 when he consulted the doctor. Life Assured stated in the proposal form that he was in sound health on 27.07.02 which is undisputedly not a fact. On evidence it was found that there was concealment of material fact but without fraudulent intention and under constrain.

An ex-gratia amount of Rs. 16,000/- under Rule 18 of the Redressal of Public Grievances Rules, 1998 was allowed.

Guwahati Ombudsman Centre
Case No. 21 / 01 / 0064 / L / 04 - 05 / GHY
Smt. Rumi Saikia

Vs.

Life Insurance Corporation of India

Award Dated 07.03.2005

Facts : The claimant Smt. Rumi Saikia states that her husband took a policy assuring Rs. 50,000/- for his life under SSS and died on 02.07.2003. Her claim was refused by LIC on plea of deliberate misstatement by the proposer/DLA.

The opposite party/insurer contested the claim by alleging that the DLA did not disclose material fact regarding his health at the time of taking the policy. That Dr. M. Saikia, the medical attendant of the DLA had treated him for 'Peptic Ulcer Syndrome' during the three years preceding his last illness on 30.06.03. That had this material information been declared the assessment of risk would have been different for which out of the three policies one was allowed which had a duration of more than 2 years and remaining two were repudiated.

Findings : The Medical attendant of the DLA stated that he was consulted on 30.06.03 with symptoms of fever and unconsciousness and the policyholder expired on 02.07.03. The doctor also stated that he was usual medical attendant of the deceased for two years and he treated him for ailment of 'Peptic Ulcer Syndrome'. This revelation of medical history comes in conflict with the statements made by the proposer submitting the proposal for assurance where he stated that he was not suffering and never suffered for ailment pertaining to liver, stomach, heart etc. But 'Peptic Ulcer' means an ulcer occurring in the lower end of the esophagus, in the stomach usually along the lesser curvature in the duodenum, etc. and the symptom, gnawing, pain, vomiting, nausea, heart-burn, acid eructation etc. So, it will be difficult to argue that the victim had no knowledge of such disease when he made declaration about 'personal history' refer item no 11 of the proposal form. It is a different question that the DLA died from 'Cerebral Malaria' which has no link with 'Peptic Ulcer Syndrome'. We are perhaps not concerned what disease killed him and what disease was concealed. The fault is with act of concealment and not the nature of disease and its proximate connection with ultimate death.

No interference from this authority was called for and complaint was treated as a case for no award and closed accordingly.

Guwahati Ombudsman Centre
Case No. 21 / 01 /0068 / L / 04-05 / GHY
Smt. Reba Nath
Vs.
Life Insurance Corporation of India

Award Dated 21.03.2005

Facts : The policyholder, driver by profession, died due to an accident. The police case was registered and ended in final report stating that the accident took place due to negligence on the part of the driver, i.e. the policyholder. The wife of the DLA filed complaint contending that refusal of accidental benefit was not proper because the opinion of the police cannot be legally accepted as a conclusive proof of negligence.

The case was contested by LIC stating that due to negligence on the part of the driver the accident took place for which accidental benefit could not be given to the policyholder as per policy condition no. 10 (Accident Benefit) which states that Corporation shall not be liable to pay any additional sum if disability or the death of the Life Assured shall result from the Life Assured committing any breach of law.

Findings : After considering the evidence it was decided that no doubt negligent driving of the vehicle will be considered as a breach of law (criminal). But a mere statement on the police final report cannot be substituted for proof. Following the decision of Hon'ble Bihar State Consumer Disputes redressal Commission, Patna, 2005 (1) CPR 252, It was held that where LIC seeks to resist claim of double accidental benefit on a plea that insured driver of the vehicle was himself rash and negligent in driving vehicle, it has to collect legal evidence to prove the fact and cannot rely upon the final report submitted by the police. In the result it was held that till date when the case was contested before the Ombudsman there was no production of legal proof to substantiate the contentions of the LIC that the

Life Assured was guilty of any breach of law. Accordingly claim was allowed by the Ombudsman with direction to make payment accordingly.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0083 / 2004 - 05
Smt. N. P. Nagarathamma
Vs.

Life Insurance Corporation of India

Award Dated 04.10.2004

Fact of The Case : Shri N. R. Pundalika Rao, S/o Shri T. N. Rama Rao, doing business and a resident of Bhadravathy in Karnataka State took an Endowment Insurance Policy from Hiriyur Branch to LIC of India, under Upupi Division. The consideration amount for the insurance policy was remitted to LIC on 07.06.2002. The life assured died on 16.09.2002. The cause of death was reported to be **Acute left ventricular failure due to lymphoma (chemotherapy)**. Smt. N. P. Nagarathna, who is the nominee and complainant under the policy, lodged a claim with the LIC. According to the insurer, the life assured consulted the Karnataka Cancer Therapy & Research Institute, Hubli on 01.06.2002, which was prior to executing the proposal for insurance. The LIC repudiated her claim on 24.10.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also alleged by the LIC that the life assured, just 9 days after signing the proposal and about 2 months before issue of their First premium Receipt, suffered from Non Hodgkin's Lymphoma and took treatment an 12.6.2002 to 26.8.2002; also underwent bone marrow operation on 13.06.2002 and treated with chemotherapy from 14.06.2002 onwards every three weeks. He, however, did not disclose these facts to LIC as per the declaration executed by him on 03.06.2002 or in the special reports submitted to LIC on 25.07.2002 or in his letter dated 15.08.2002 submitted subsequently requesting LIC to issue the policy with commencement date as 24.07.2002 or ever before issue of the first premium receipt on 19.08.2002. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy and in terms of policy contract, the claim was repudiated by LIC.

Decision : I heard the contentions of both sides also perused all the documents placed before me.

- a) Shri N.R. Pundalika Rao, S/o Shri T. N. Rama Rao, doing business and a resident of Bhadravathy District in Karnataka took an endowment assurance policy in 06/2002 for a Sum Assured of Rs. 2,00,000. The life assured, executed the proposal for insurance on 3.6.2002 and tendered the consideration amount of Rs. 8,200/- for the insurance policy an 7.6.2002. The Insurer vide his letter dated 18.06.2002, requested the life assured to undergo medical test viz. Blood Sugar Test and Serum Cholesterol and submit the relevant reports. Accordingly, these reports were submitted to LIC by the life assured on 25.07.2002. The life assured, vide his letter dated 15.08.2002 addressed to LIC, requested them to issue the policy with date of commencement as 24.07.2002 and based on his letter, the insurer issued the policy on 19.08.2002 with date of commencement as 24.07.2002.
- b) The life assured died on 16.09.2002. The duration of the claim was just 3 months only. The cause of death was reported to be "**acute left ventricular failure due to lymphoma (chemotherapy)**". Since it was a very early claim, they arranged for investigation of the claim;
- c) Their investigations revealed that the life assured, just 9 days after signing the proposal form and 2 months before issue of the insurance policy, suffered from Non-Hodgkin's Lymphoma and took a treatment in a hospital from 12.06.2002 to 26.08.2002; underwent bone marrow operation on 13.06.2002 and was treated with chemotherapy every three weeks from 14.06.2002 onwards. Since the life assured suppressed these material facts, the claim under the policy was repudiated by LIC ;

- d) In support of their repudiation action, LIC obtained treatment particulars from the Karnatak Cancer Therapy & Research institute, Hubli. According to the case records of the hospital, the life assured took treatment from **01.06.2002 (before the date of proposal)** to 26.08.2002 vide Regd. No. AC-1270. The life assured was admitted in the hospital with complaints of **fever since 6 months**. The diagnosis arrived by the hospital authorities was **Non-Hodgkin's Lymphoma** ;
- e) According to the treatment particulars obtained by them from Nanjappa Hospital, Shimoga, the life assured was admitted there on 15.09.2002 vide hospital no. 2022755 and expired in the hospital while undergoing treatment on 16.09.2002. The diagnosis arrived by the authorities was Non-Hodgkin's Lymphoma, acute left ventricular failure-chemotherapy induced cardiac failure. Before coming to this hospital, the insured took treatment in Nirmala Hospital, Bhadravathy for the above diseases ;
- f) The above facts clearly establish the fact that the life assured was not keeping in good health at the time of taking the insurance policy in 06/2002.
- g) According to the underwriting norms of LIC, had the life assured disclosed the above material facts either at the time of executing the proposal for insurance on 03.06.2002 or at the time of undergoing special medical test, he would not have been considered for insurance ;
- h) According to Mosby's Medical Dictionary 2003 (Page No. 671 - 672), the implications of lymphoma are "a neoplasm of lymphoid tissue that is usually malignant but in rare cases, may be benign. The various lymphomas differ in degree of cellular differentiation and content but the manifestations are similar in all types. Characteristically, the appearance of a painless, enlarged lymph node or nodes in the neck is followed by weakness, fever, weight loss and anemia. With widespread involvement of lymphoid tissue, the spleen and liver usually enlarge and GI disturbances, malabsorption and bone lesions frequently develop. Men are more likely than woman to develop lymphoid tumors. Treatment for lymphoma includes intensive radiotherapy and chemotherapy;
- i) Thus, there was clear nexus between the material facts suppressed the cause of death to the life assured on 16.09.2002. There is, therefore deliberate suppression of material facts relating to his health condition on the part of the life assured. The life assured after knowing well that something untoward might happen had taken the policy by suppression the material facts relating to his serious illness, thus rendering the contract void ab-initio;
- j) The insurer, therefore, in the present case, had proved that the insured had suppressed the truth and suggested falsehood as enshrined in the maxim "Suppressio Veri; Suggestio Falsi". The conduct displayed by the insured as referred to above would clearly prove that though the insurer consulted doctor / hospital and was on treatment, he conveniently concealed it from the insurer for the purpose of obtaining the Insurance policy somehow;
- k) Section 45 of the Insurance Act 1938 was not applicable under the claim. The implications is that the insurer need not establish fraudulent intent on the part of the life assured. As the contract of insurance being a contract of **Ubberima fide**, there must of complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant to the insurer to take into account while deciding whether the proposal for insurance should be accepted or not or should be accepted subject to certain conditions. While making a disclosure of the relevant fact the duty of the insured to state them truly and correctly cannot be watered down;
- l) It is settled law that the contract of insurance is based on good faith. It is for the insured to give the correct information on his health, which he did not disclose at that

time. This ground of incorrect information and false statements regarding the health of the insured makes the insurance contract null and void;

- m) The insurer in the present case has repudiated the claim invoking the provisions of the first part of Section 45 of the Insurance Act 1938. In other words, they have not only proved palpably false but also inaccurate, incorrect and misstatement of facts by the life assured at the time of executing the proposal for insurance. Therefore, the policy is justifiably declared null and void.
- n) Therefore, I have to hold for the reasons as aforesaid and also in the light of medical evidences available on record as referred to above, the repudiation of the claim, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claim by the insurer does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is, therefore, dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21.001.0148 / 2004 - 05
Shri Appasab Pundalik Jagadale
Vs.
Life Insurance Corporation of India

Award Dated 04.10.2004

Fact of The Case : One Shri Shivappa Pundalik Jagadale, S/o Shri Jagadale Pundalik Working as teacher and a resident of Bagalkot District in Karnataka, took a Life Insurance Policy under Non medical Scheme from Jamkhandi Branch of LIC of India, under Belgaum Division. The life assured died on 06.08.2002. The cause of death was reported to be heart attack. Shri Appasab Pundalik Jagadale, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.10.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he availed **leave on sick ground for 23 days during 10.01.2002 to 01.02.2002**. He, however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of the insurer and also perused all the documents including the written submission of both the parties.

- i) The life assured took an Endowment Assurance Policy in 06/2002 for a Sum Assured of Rs. 1,00,000. The life assured was working as teacher and a resident of Bagalkot District in Karnataka. He died on 06.08.2002. The duration of the claim form risk date was Just 38 days and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured fell sick and took treatment from a doctor, prior to taking the insurance policy. It was also alleged by the insurer that the life assured availed leave on sick ground for 23 days, prior to taking the insurance policy.
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Dr. V.L. Malghan, Medical Officer, Metgudda. According to the treatment particulars obtained by the insurer in their claim from B2 from this doctor, the insured first consulted the doctor on 10.01.2002 (prior to the proposal) with complaints of pain

abdomen and the duration was reported as 15 days. The diagnosis arrived by the doctor was **pain abdomen-alcoholic impression cirrhosis**;

- iv) In support of their repudiation, the insurer also obtained information from the employer of life assured. The employer reported that the insured availed **leave on medical grounds during the period 10.01.2002 to 03.02.2002**. It is observed that during this period only, the life assured consulted the above doctor and took treatment from him.
- V) The complainant in his letter dated addressed to Insurance Ombudsman reported that the life assured availed leave from 11.01.2002 to 31.01.2002 due to pain abdomen and had undergone medical treatment;
- vi) The consultation and treatment referred to above was just 4 months prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal from insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- vii) The policy under dispute was issued by the insurer under Non-medical Scheme, without undergoing medical examination by authorized medical examiner of LIC and there is, therefore, more responsibility cast on the insured to disclose all material facts to the insurer;
- viii) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 38 days only and the life assured paid just 2 monthly premiums;
- ix) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- x) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec.45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21.001.0108 / 2004 - 05
Shri Y. C. Muniraj
Vs.
Life Insurance Corporation of India

Award Dated 04.10.2004

Fact of The Case : One Shri Y. C. Muniraj, S/o late Chinappa working in Forensic Science Laboratory and a resident of Bangalore took the above life insurance policy in 08/2000 from Jayanagar Branch of LIC, under Bangalore Division. The mode of payment of premium was salary saving scheme. The life assured died on 07.02.2003. The cause of death was reported to be **Hepatic Precoma with cirrhosis of liver**. Smt. Lakshamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal for insurance, gave false answers to certain questions in the proposal form. It was also alleged by the LIC that they held indisputable proof, to show that even before he took the insurance policy, he suffered from **Alcohol Dependence Syndrome, Mycloneuropathy, Alcoholic liver disease, delusional disorder** and took treatment for the same in NIMHANS Hospital, Bangalore during the period 19.06.2000 to 04.08.2000. The insurer also alleged that the insured availed leave on sick grounds during the periods 08.05.2000 to 30.06.2000 and 16.07.2000 to 07.08.2000 for **alcoholic dependence**. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Instead, he gave false answers to all the relevant questions in the proposal form executed by him. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, the insurer repudiated the claim.

Decision : I have carefully perused all the documents, including the written submission of the complainant and the insurer placed before me.

- a) The life assured took a life insurance policy in 08/2000 for a Sum Assured of Rs. 75000 under salary saving scheme. Accordingly, the premium were regularly recovered from the salary of the life assured by his employer and remitted to LIC. The policy under dispute was taken by the insured under Non-medical Scheme (without undergoing medical examination by authorised medical examiner of LIC). The life assured died on 07.02.2003. Since the duration of the claim was between 2 to 3 years, the LIC arranged for investigation of the claim;
- b) LIC repudiated the claim alleging that the life assured suffered from **alcohol dependence syndrome, mycloneuropathy, alcoholic liver disease, delusional disorder** and took treatment in NIMHANS Hospital, Bangalore, prior to taking the insurance policy. It was also alleged by the insurer that the life assured also availed leave on sick ground during the periods 08.05.2000 to 30.06.2000 and 16.07.2000 to 07.08.2000 for alcoholic dependence;
- c) According to the treatment particulars obtained by the insurer in the form of Case Summary (hospital records) from NIMHANS Hospital, Bangalore the life assured was admitted there on 19.06.2000 vide in-patient no. 183922 and discharged on 04.08.2000. The insured was admitted there with complaints of **“alcohol consumption for the last 17 years according to patient and 10 years according to his wife; irritable, abusive, assertive 8 years; impaired sleep-6 months and decreased appetite, tremors of hands and altered walking, puffness of face, oedema of limbs-since 3 months”**;
- d) The final diagnosis arrived by the hospital authorities was **“alcohol dependence, alcoholic liver disease, alcoholic myeloneuropathy and delusional disorder”**.
- e) In continuation of his earlier treatment, the life assured was again admitted in the same hospital on 06.11.2001 and took treatment upto 13.11.2001. One again, the final diagnosis arrived was **“alcohol dependence syndrome with simple Withdrawal state”**. Finally, just before death, the insured was admitted in K. C.General Hospital, Bangalore on 28.01.2003 vide hospital no. 1479 and expired in the hospital on 07.02.2003. The diagnosis arrived by the hospital authorities was **“hepatic precoma with cirrhosis of liver”**;
- f) The proposal for the insurance policy was executed by the insured on 10.08.2000, just 6 days after his discharge from NIMHANS Hospital, Bangalore. Therefore, the life assured knew that he suffered from alcohol dependence syndrome-alcoholic liver disease-alcoholic myeloneuropathy delusional disorder and took treatment for the same, prior to

taking the insurance policy. It was therefore, well within his knowledge and the life assured ought to have disclosed the same to the insurer at the time of revival of the policy;

- g) Even the investigating official who enquired into the bonafides of the claim also reported that the life assured was not keeping in good health at the time of taking the policy and that the life assured suffered from the above diseases, prior to taking the policy;
- h) According to Mosby's Medical Dictionary 2003, (Page No. 38), the implications of alcoholism are "the extreme dependence on excessive amounts of alcohol associated with a cumulative pattern of deviant behaviours. Alcoholism is a chronic illness with a slow, insidious onset, which may occur at any age. Frequent intoxication has cumulative destructive effects on an individual's family and social life, working life and physical health. The most frequent medical consequences of alcoholism are central nervous system, depression and cirrhosis of the liver." According to the same dictionary, (Page no.38) the implications of alcohol withdrawal syndrome are "the clinical symptoms associated with cessation of alcohol consumption. These may include tremors, hallucinations, autonomic nervous system dysfunction and seizures".
- i) Accordingly Stedman's Medical Dictionary (27th Edition) (Page No. 43), the implications of alcoholism are "chronic alcohol abuse, dependence, or addiction; chronic excessive drinking of alcoholic beverages resulting in impairment of health and/or social or occupational functioning, and increasing adaptation to the effects of alcohol requiring increasing doses to achieve and sustain a desired effect; specific signs and symptoms of withdrawal usually are shown upon sudden cessation of such drinking.
- j) In the circumstances of this case therefore, the suppression of material facts by the life assured is very clear. The facts suppressed were obviously material to the assessment of the risk. The misleading intention is also very clear, in that, the life assured had not disclosed the disease in the proposal form submitted by him for the purpose of insurance policy, although he was very much aware of the same;
- k) Contract of Insurance being a contract of Ubberima fide, there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts, which may be relevant to the insurer to take into account while assessing the risk in the right perspective;
- l) The insurer, in the present case, has repudiated the claim invoking the provisions of the second part of Section 45 of the Insurance Act, 1938. In other words, the insurer proved beyond doubt, that there was not only a clear suppression of material facts but also fraudulent intent on the part of the insured and was therefore, well within his right to invoke second part of Section 45 of the insurance Act. 1938 in the present case and repudiated the claim;
- m) Therefore, I have to hold for the reasons as aforesaid and also in the light of medical evidences available on record as referred to above, the repudiation of the claim, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claim by the insurer does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. L / 21.001.0043 / 2004 - 05
Smt. Usha Prabhakar
Vs.
Life Insurance Corporation of India

Award Dated 04.10.2004

Fact of The Case : Shri G. Prabhakar, S/o Shri G. Narayana Rao, Working in Provident Fund Office and a resident of Jodumarga in Karnataka, took a Life Insurance Policy from Mangalore-II Branch of LIC of India, under Udupi division. The life assured died on 09.12.2002. The cause of death was reported to be drowning. Smt. Usha Prabhakar, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 12.06.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from Bronchitis, viral fever and general debility and took treatment from a doctor. The insurer also alleged that the life assured availed leave on sick grounds during the periods 05.02.1998 to 13.02.1998; 04.09.2000 to 08.10.2000 and 19.12.2001 to 21.12.2001. He, however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form for insurance. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both and also perused all the documents including the written submission of both the parties :

- i) The life assured took an Endowment Assurance policy in 08/2002 for a Sum Assured of Rs. 25,000. The life assured was a resident of Jodumarga in Karnataka. He died on 09.12.2002. The duration of the claim from risk date was just 3 ½ months and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from Bronchitis, viral fever and general debility and took treatment from a doctor, prior to taking the insurance policy. Further, the insured also availed leave on sick grounds in 02/1998 (Bronchitis); 09/2000 - 10/2000 (viral fever and general debility) and 12/2001 (general debility),
- iii) In support of their repudiation, the only evidence obtained and submitted was copies of leave applications of medical certificates submitted by the life assured to his employer at the time of availing leave. Further, he alleged ailments appears to be in the nature of non-serious and passing diseases and they occurred well before the policy was subscribed to; and the complainant's explanation that they continued petty reasons for availing leave cannot be brushed aside.
- iv) Thus, the evidence relied upon by the insurer was too flimsy to suffice for repudiation of the claim of the complainant. It would be pertinent to mention here that the insurer already admitted a claim under policy 623348522 taken by the life assured in 04/2000 although according to the insurer the life assured took treatment for Bronchitis in 1998.
- v) Let us see what constitutes a "material fact". Material fact has been defined as any fact which influences the judgement of a prudent insurer in fixing the premium or whether the insurer would take the risks or not, as could be seen from paragraph 583 of Mac Gillivray and Karkington on Insurance Law, 7th Edition. A person suffering from a temporary ailment or a disorder, which was not a major one, cannot be accused of suppressing a material fact. A mere ailment like chill or fever cannot be termed as suppression of material fact and also for the reason that it could be consider as a passing ailment or a temporary disorder which would, in all probability, have been set right, in the absence of any evidence to the contra. Mere passing ailments or disorders like fever or general debility can not be considered material to the risk to be undertaken by the insurer so as to render the contract void. Mere incorrect or wrong answer to the questions, which ultimately do not have any bearing on the health condition of the life assured and which to not leave any permanent mark on the life of

the life assured cannot be considered as a material fact assessing the risk by the insurer;

- vi) Sec. 45 of the Insurance Act 1938 is not a licence to the insurer to repudiate a claim. There should be an amount of credible, reliable and acceptable evidence to substantiate the repudiation;
- vii) The life assured was also medically examined by the panel doctor of LIC who found the life assured to be medically fit for insurance; and, accordingly, the policy in question was issued. Further, the cause of death was drowning as established by police reports also;
- viii) In the present case, it is also profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies. "In course of time, the Corporation has grown in size and at present, it is one of the largest Public Sector financial undertakings. The public in general and the crores of policyholders in particular look forward to prompt and efficient service for the Corporation. Therefore, the authorities in charge of management of the affairs of the corporation should bear in mind that its credibility and reputation depend on its prompt and efficient service. Therefore, the approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be one of extreme care and caution. It should not be dealt with in the a mechanical and routine manner".,
- xi) In the present case, the insurer had not proved its case to the hilt by cogent and clear evidence. It is only a futile attempt on the part of the insurer to cash in small documents, which fail to substantiate the allegations of the insurer;
- x) Having regard to the facts and circumstances of the case, as discussed above and also the manner in which the claim was made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the aforesaid policy;
- xi) Therefore, for the reason as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified;
- xii) I, therefore direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. L / 21.001.0115 / 2004 - 05
Smt. G. C. Vasanthamma
Vs.
Life Insurance Corporation of India

Award Dated 04.10.2004

Facts of The Case : One Shri J. Ajjappa, S/o Shri Jagalurappa, an agriculturist and resident of Chitradurga District in Karnataka took the above life insurance policy from Challakere Branch of LIC, under Udupi Division. The policy was in a lapsed condition due to non-payment of premiums due from 07/2002. Subsequently, the life assured got the policy revived on 28.02.2003. The life assured died on 12.03.2003. The cause of death was reported to be paralysis. Smt. G. C. Vasanthamma, the complainant and nominee under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving his lapsed policy, gave false answers to certain questions in the declaration of good health form, submitted by him at the time of reviving his lapsed policy. It was also stated by the LIC that they held indisputable proof, to show that even before he revived his lapsed policy, he suffered from acute pulmonary

disease with chronic bronchitis and took treatment from a doctor. He, however, did not disclose these facts in the declaration of good health form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of reviving his lapsed policy, the insurer repudiated the claim by setting aside the revival.

Decision : I heard the contentions of both sides and perused all the documents, including the written submission of the complainant, placed before me.

- a) The life assured took a life insurance policy in 07/2000 for a sum assured of Rs. 50,000. But the policy remained in a lapsed condition due to non-payment of premia due from 07/2002. Later, the insured got the policy revived on 28.02.2003 under Non-medical Scheme (without undergoing medical examination). The life assured died on 12.03.2003. Since the duration of the claim was just 12 days from the date of revival (less than 2 years), the insurer arranged for investigation of the claim.
- b) LIC repudiated the claim by setting aside the revival effected on 28.02.2003 as the life assured had fraudulently suppressed material facts relating to his health prior to revival of the policy;
- c) In support of their repudiation action, they obtained treatment particulars from Dr. Indudhara of Chitradurga in their relevant claim forms. According to the treatment particulars obtained in form no. 5152, the life assured first consulted the doctor on **27.01.2003 (prior to revival)** and took treatment. The insured consulted the doctor for complaints of pain abdomen, fever and cough. The duration of illness was reported as 15 days. It was reported by the doctor that the complaints were reported to him by the life assured himself. The diagnosis arrived by the doctor was **“acid peptic disease (APD) with chronic bronchitis”**;
- d) The life assured was advised to undergo x-ray of chest and blood and other tests but the insured did not undertake such tests, as reported by the doctor;
- e) The consultation and treatments from DR. Indudhara was just 25 days prior to revival of the policy and this established the fact that the life assured was not enjoying good health at the time of revival of the policy. Further, the revival was considered by the insurer under Non-medical Scheme. As such, more responsibility was cast on the life assured to disclose all the material facts by furnishing correct information to the relevant questions. But the life assured answered all the questions in negative by suppressing the material facts;
- f) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of revival of the policies, they would not have considered the revival under Non-medical Scheme and they would have called for special medical tests and the consideration or otherwise of the life assured for the revival would be dependant on the findings of these reports;
- g) The policy was revived on 28.02.2003 just 25 days after his consultation and treatment from Dr. D. Indudhara of Chitradurga. These facts were obviously very fresh in his memory and the insured should have disclosed all these material facts relating to his health condition, while answering the relevant questions in the declaration of good health form. Instead, he had fraudulently suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the revivals without attaching any conditions;
- h) In the circumstances of this case, therefore, the suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessments of the risk. The fraudulent intention is also very clear, in that, the life assured had not disclosed the disease in the personal statement of good health form submitted by him for the purpose of revival of his lapsed policies, although he was very much aware of the same;

- i) Therefore, I have to hold for the reason as aforesaid and also in the light of medical evidences available on record as referred to above, the repudiation of the claim, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claims by the insurer is justified;
- j) In this connection, it would be relevant to mention that the LIC have been taking a sympathetic view in the case of insureds **who die** after payment of premiums for atleast two years. This will not be applicable in the case of policies which lapse and where the insureds are alive. Normally, an LIC Policy acquires **paid up value** only after payment of premia for atleast three years. In this case the insured paid premia regularly for two years. Thereafter, the policy lapsed and was revived on wrong declaration of good health form submitted by the life assured. Therefore, while it was true that the revival of the policy is null void in view of the facts mentioned above, the **Policy itself has acquired some notional paid up value, as per the the Chairman's Claims Relaxations Circular dated 01.10.1987 issued by the corporate Office of the insurer.** It is not known as to how this aspect missed the attention of the insurer at the Divisional as well as Zonal level. The above circular envisages consideration of such claims to the extent of a proportionate notional paid up value on the basis of actual premiums paid. As per the Chairman's Relaxations referred above, the nominee of the life assured is entitled for a notional paid up value at the prescribed rates for two years which works out to Rs. 7,000/-;
- k) In the light of the above facts and observation, I am of the opinion that the decision of the insurer in repudiating the claim is justified. At the same time, the complainant/nominee is entitled under the Chairman's Claims Relaxations referred to above, for a settlement of Rs. 7000/- by the LIC in her favour, as Notional paid up value, I directed the insurer to settle this amount of Rs. 7,000/- (Rupees seven thousand only) immediately;
- l) I also direct the LIC to examine the possibility of incorporating the Chairman's Claims Relaxations as a policy condition, failing which it may be admitted in some cases and may not be admitted in other case, as it happened in the case, which tantamounts to discrimination.

The complaint is therefor, allowed for National Paid up Value as referred above under Ex-gratia.

Hyderabad Ombudsman Centre
Case No. L / 21.001.0143 / 2004 - 05
Smt. M. Rajani Naik
Vs.
Life Insurance Corporation of India

Award Dated 04.10.2004

Facts of The Case : Shri M. Ravindra Nayak, S/o Shri M. Ragahavendra Nayak, working in Corporation Bank as an Officer and a resident of Karkala (Post) in Karnataka took a Jeevan Suraksha Insurance Policy from Karkala Branch of LIC of India, under Udupi Division. The life assured died on 28.09.2003. The cause of death was reported to be acute left ventricular failure with pulmonary oedema. Smt. M. Rajani Nayak, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 07.02.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that for about 5 years before he proposed for the above policy, he had suffered from "**hypertension**" and took treatment from a doctor. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both and also perused all the documents including the written submissions of both the parties :-

- i) The life assured took a Jeevan Suraksha Pension Policy in 12/2001 for a Sum Assured of Rs. 70,000. The life assured was working as an Officer in Corporation Bank. He died on 28.09.2003. The duration of the claim from risk date was 1 year and 9 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim as the life assured had fraudulently suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured, about 5 years before he proposed for the insurance policy, suffered from hypertension and took treatment for the same. It was also alleged by the insurer that the life assured suffered from diabetes since one year and took treatment for the same;
- iii) Section 45 of the Insurance Act 1938 was applicable under the claim as the insurer repudiated the claim after expiry of two years from the date of commencement of the policy. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to disclose. The said provision lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;
- iv) In support of their repudiation, the only evidence obtained and submitted was treatment particulars from Dr. K. S. Shenoy and Dr. K. R. Joishy in their claim form no. 5152. According to his certificate, the life assured was suffering from essential hypertension since 6 years and diabetes since one year. The durations mentioned by the doctor are of vague statements in the absence of any corroborative evidence;
- v) And it is strange that the insurer could not obtain any case sheet or treatment particulars like details of admissions/consultations and details of medicines prescribed as also any pathological test conducted, confirming that the life assured had Hypertension/Diabetes, as alleged by the insurer. These details are very essential to sustain their repudiation action, especially, when the repudiation was done after two years and 2nd part of Section 45 of the Insurance Act 1938 was applicable;
- vi) Since Sec. 45 is applicable under the claim, LIC would have to prove fraud in this case and establish that it was their normal practice not to give insurance policies in favour of people suffering from hypertension of the kind the deceased had and the life assured by not divulging the fact obtained policy thereby gaining an advantage for himself vis-a-vis other policyholders. This aspect has not been established by the Corporation with sufficient evidence in this case;
- vii) The life assured was also medically examined by the panel doctor of LIC and found the life assured to be medically fit for insurance and accordingly, the policy in question was issued;

- viii) According to the information obtained by the insurer from the employer of the life assured, the insured did not avail any leave on medical grounds prior to taking the policy nor did he avail any medical reimbursements from his employer.
- ix) Having regard to the facts and circumstances of the case as discussed above and also the manner in which the claim made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities and in the absence of any supportive or / concrete evidence to the effect that the life assured had fraudulently suppressed material facts relating to his health prior to taking the insurance policy, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above claim. Further, the repudiation action of the insurer did not fulfill all the three ingredients required for repudiation of a claim under the 2nd part of Section 45 of Insurance Act 1938;
- x) Therefore, for the reason as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct proper and justified;
- xi) I, Therefore, direct the insurer to settle the claim under the above policy for full sum assured.
- The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. L / 21.001.0155 / 2004 - 05
Smt. Vijayalakshmi
Vs.
Life Insurance Corporation of India

Award Dated 05.10.2004

Background : Shri S. Kumar, S/o Shri K.B. Shivappa, working as lecturer and a resident of Hunsur in Karnataka took three life insurance policies under Non-medical Scheme (without undergoing medical examination) from Hunsur Branch of LIC under Mysore Division. The life assured died on 10.05.2001. The cause of death was reported to be heart attack. According to the insurer; the life assured was reported to have been admitted in Holds worth Memorial Hospital, Mysore in **04/1997** and took treatment for **ureteric** calculi and was reported to be a known **alcoholic and hypertensive**. Later, he took treatment in Sitaranga Nursing Home in **1998** for **coronary artery disease**. These admissions and treatments were **prior to taking the insurance policies**. Smt. Vijayalakshmi, who is the nominee and complainant under the policies, lodged a claim with the LIC for settlement of the above claims.

But all the claims were repudiated by LIC alleging that the life assured had deliberately suppressed the above material facts relating to his health while taking the insurance policies.

Decision :

I have carefully perused all the documents placed before me also heard the contentions submitted by both the parties.

- i) The life assured late S. Kumar, working as a lecturer took three insurance policies viz. Pol. No. 722351406 in 08/1998 for a Sum Assured of Rs. 60000, 722401680 in 11/1998 for Rs. 50000 and 722407031 in 01/1999 for a Sum Assured of Rs. 60000 respectively. All the policies were taken by the life assured under Non-medical Scheme (without undergoing medical examination by authorized medical examiner of LIC). Later, he died on 10.05.2001 due to "**chest Pain**". The insurer repudiated all the claims on 20.05.2002, as the life assured deliberately suppressed material facts relating to his health;

- ii) It was alleged by the insurer that the life assured, even before he proposed for the insurance policies, suffered from Ureteric Calculi and took treatment for the same in a hospital. Further, the life assured was also reported to be a known patient of alcoholic, BP and coronary artery disease. Since the life assured suppressed these material facts, the insurer repudiated the claims;
- iii) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions Contained in Section 45 of the Insurance Act 1938. The said section provides. inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to disclose. The said provision lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;
- iv) According to the hospital records of Holdsworth Memorial Hospital. Mysore, the insured was **first** admitted in the hospital on **07.04.1997 with complaints of pain abdomen (lower)** and was diagnosed to be **Rt. Ureteric Calculi (stone Rt. UV Jn)**. The life assured was reported to be **a known alcoholic and BP (140/100)**. This admission and treatment thereto was prior to taking the insurance policies;
- v) Later, the life assured was admitted in Simha Heart Foundation, Mysore on 10.02.2001 vide IP 96 with complaints of severe chest pain and discharged on 12.02.2001. According to the treatment particulars obtained by the insurer from this hospital in their claim forms B1, the insured was reported to be a known patient of CAD (coronary artery disease) / Old ASQMI. The diagnosis arrived by the hospital authorities was Non - cardiac chest pain with hypovolvenic hypotension. The hospital records also indicated that the life assured was hospitalised in Sitha Ranga Nursing Home between 1998 and 1999 for CAD / DMI. The insured had inebriated state due to alcohol / severe hypovolemic hypotension. Finally, the life assured died due to chest pain (heart attack);
- vi) As regards suppression of facts, I find that the LIC had thoroughly investigated the matter and proved that the life assured did suppress certain facts. Although the insured was reported to have taken treatment in Sitha Nursing Home (as per claim form B1 of Simha Heart Foundation), the insurer failed to get the relevant treatment particulars like case sheets, admission particulars from the hospital to sustain their repudiation action. According to the investigating official of LIC, no such records were available in the hospital;
- vii) According to the insurer, the life assured suffered from Ureteric Calculi and took treatment for the same. As per the underwriting norms of LIC, a policy is not denied to a person who suffered from Ureteric Calculi. It may, perhaps, invite loading of premium;
- viii) Since Sec. 45 is applicable under all the claims, the onus is on the insurer to obtain complete treatment particulars like case sheets from all the hospitals where the insured was reported to have been admitted and took treatment. The insurer cannot repudiate the claims on the basis of history reported in the hospital records. But this was not done by LIC. Further, the LIC would have to prove fraudulent intent on the part of the life assured and establish that it was their normal practice not to give insurance

policies in favour of people suffering Ureteric Calculi and the life assured by not divulging the fact obtained a policy, thereby gaining an advantage for himself vis-a-vis other policyholders. Thus fraudulent intent on the part of the insured had not been established by the insurer with sufficient evidence in this case;

- ix) The only contention of LIC appears to be violation of the principle of utmost good faith. But to sustain their repudiation action, the insurer must fulfil all the three ingredients mentioned in the 2nd part of Sec. 45 of the Insurance Act 1938.
- x) Having regard to the facts and circumstances of the case as discussed above and also the manner in which the claims made by the complainant under the aforesaid insurance policies were dealt with by the insurer without taking note of the ground realities and in the absence of any supportive or concrete evidence to the effect that the life assured had fraudulently suppressed material facts relating to his health prior to taking the insurance policies, I am of the view that it is only fit and proper to direct the insurer to settle the claims under the above claims;
- xi) Further, the repudiation action of the insurer did not fulfil all the three ingredients required for repudiation of a claim under the 2nd part of Section 45 of the Insurance Act 1938.
- xii) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claims under the policies by the insurer is not legal, correct, proper and justified;
- xiii) I, therefore, direct the insurer to settle the claims under the above policies for full sum assured.

The complaint is allowed under all the three policies mentioned above.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0129 / 2004 - 05
Smt. Dhulamma
Vs.
Life Insurance Corporation of India

Award Dated 06.10.2004

Facts of The Case : One Shri Laxman, S/o Shri Zatappa Dargi working as peon in Sub Registrar Office and a resident of Gulbarga in Karnataka took a life insurance policy from Gulbarga I - Branch of LIC of India, under Raichur Division. The life assured died on 05.10.2002. The cause of death was reported to be **Chronic Renal Failure - Cardio respiratory arrest**. Smt. Dhulamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 08.07.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from pulmonary infection (bronchitis) and took treatment from a doctor. He, however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision :

I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties :-

- i) The life assured took a Marriage Endowment / Educational Annuity Policy in 08 / 2002 for a Sum Assured of Rs. 50,000. The life assured was working as peon in Sub Registrar Office and was a resident of Gulbarga in Karnataka.

He died on 05.10.2002. The duration of the claim from risk date was just 40 days and hence the insurer arranged for investigation into the bonafides of the claim;

- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from pulmonary infection (Bronchitis) since January 2002 and took treatment from a doctor, prior to taking the insurance policy. It was alleged by the insurer that the life assured suffered from kidney problem, prior to taking the insurance policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from District Hospital, Gulbarga. According to the treatment particulars obtained by the insurer in their claim form B / B1 from this hospital, the insured was admitted there on 04.10.2002 with complaints of fever since 10 days and swelling of legs 10 days. The diagnosis arrived by the authorities was "**Chronic Renal Failure**" and the insured died in the hospital while undergoing treatment on 05.10.2002. Before admission to this hospital, the life assured was admitted in Basaveshwar Teaching & General Hospital, Gulbarga on 03.10.2002 vide In-patient No. 123884 and discharged against medical advice on 04.10.2002. It was reported in the records of this hospital as "**high risk - consent for haemodialysis**". The diagnosis arrived by them was "**ESRD CRF with Metabolic acidosis**";
- iv) in support of their repudiation action, the insurer also obtained medical certificate dated 04.02.2003 from Dr. S. H. Katti. According to this document, the life assured was suffering from Pulmonary Infection (Bronchitis) from January 2002 and the insured was treated by him;
- v) According to Mosby's Medical Dictionary 2003, the implications of Chronic Renal Failure (Page No. 978) are "may result from many other disease. The early signs include sluggishness, fatigue and mental dullness. Later, anuria, convulsions, GI Bleeding, malnutrition and various neuropathies may occur. The skin may turn yellow - brown and become covered with uremic frost. Congestive heart failure and hypertension are frequent complications, the results of hypervolemia. Urinalysis reveals greater than normal amounts of urea and creatinine, waxy casts and a constant volume of urine regardless of variations in water intake. Anemia frequently occurs. The prognosis depends on the underlying cause. Treatment usually includes restricted water and protein intake and the use of diuretics. When medical measures have been exhausted, long-term hemodialysis is often begun and kidney transplantation is considered";
- vi) The consultations and treatments referred to above were all prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- vii) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 40 days only and the life assured paid just one quarterly premium;
- viii) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance

policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;

- ix) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

**Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0026 / 2003 - 04**

Smt. Ratnamma

Vs.

Life Insurance Corporation of India

Award Dated 06.10.2004

Facts of The Case : Shri V. Thippaiah, S/o Shri V. Muniyappa, working as an artist in KSRTC and a resident of Kolar District in Karnataka, took a Life Insurance Policy from Kolar Branch of LIC of India, under Bangalore - II Division. The life assured died on 30.01.2003. The cause of death was reported to be sudden heart attack. Smt. Ratnamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 31.07.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that the life assured was reported to be an **alcoholic since 12 years and Rheumatic Heart Disease (RHD) (congenital)**. The insurer also alleged that the life assured **lost vision in the right eye due to accidental injury**. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision :

I heard the contentions of both sides and perused all the documents including the written submissions of the complainant placed before me;

- i) Shri V. Thippaiah, S/o Shri V. Muniyappa, working as an artist in KSRTC and a resident of Kolar District in Karnataka took a Jeevan Surabhi Insurance Policy for a Sum Assured of Rs. 40,000 under Non-medical Scheme (without undergoing medical examination by authorised medical examiner of LIC). He had executed the proposal for insurance on 29.09.2002 and the policy was issued with risk commencing from 28.08.2002, as requested by the life assured. The life assured died on 30.01.2003. The cause of death was reported to be "**RHD - Mitral Stenosis - Grade - II Aortic Regurgitation in atrial fibrillation**". The duration of the claim was just four months only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) Their investigations revealed that the life assured sustained **injury to right eye - blind since 5 years in the right eye, the life assured was a smoker and consumes alcohol since 12 years**". Since the life assured did not disclose these material facts while executing the proposal for insurance, LIC repudiated the claim;
- iii) According to the treatment particulars obtained by the insurer in the form of hospital records from R. L. Jalappa Hospital & Research Centre, Kolar, the insured was admitted there on 18.01.2003 with Inpatient No. 217742 and discharged on 20.01.2003.

The life assured was admitted there with complaints of chest pain (-) left infraaxillary, mild chest pain non-radiating - 2 months not assoc. with breathlessness and vomiting. It was also reported in the case record that the life assured sustained **injury to right eye - blind since 5 years in the right eye, the life assured was a smoker and consumes alcohol since 12 years**”;

- iv) The primary and secondary cause of death reported / recorded by the hospital authorities was **RHD - Mitral Stenosis Grade - II AorticRegurgitaion in atrial fibrillation**;
- v) Further, the policy under dispute was issued by the insurer under Non - medical Scheme, without undergoing medical examination by authorised medical examiner of LIC and there is, therefore, more responsibility cast on the insured to disclose all material facts to the insurer to enable the insurer to assess the risk in the right perspective;
- vi) Incidentally, the suppression of material fact of his illness of has nexus with the cause of death on 30.01.2003;
- vii) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had **run for just 4 months** and the life assured **paid just 5 monthly premiums**;
- viii) As the contract of insurance of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant to the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- ix) However in cases where the Life Assured dies within two years and his nominees will not be able to avail themselves of the benefit of 2nd part of Section 45, the insurer is not justified in repudiating the claim of the nominees totally unless the pre-existence of undisclosed condition/diseases is proved beyond all doubt and that such pre-existing condition has come nexus with the cause of death.
- x) In the case, the blindness in one eye was pre-existing and undisclosed. But it has no nexus with the cause of death. The other conditions or diseases cited by the insurer were quoted from the record of oral statement at hospital where the life assured died without bringing on record any independent evidence, going beyond the inception date of the policy, of any prescription, treatment or hospitalization or evidence to allow that the life assured was aware of the so-called congenital RHD. etc. before he took the policy.
- xi) Further, the complainant is an illiterate. The only son of the deceased was also not offered any employment by the employer of the life assured. The life assured and the complainant belong to rural area. The sudden death of the life assured rendered the family of the deceased impossible to earn their livelihood. In view of these facts and in view of the total illiterate and socio-economic and rural background of the complainant, I am of the view that it is just and proper to meet ends of justice, I direct the insurer to make a payment equivalent to premiums paid by the life assured till his death as exgratia by invoking Rule 18 of the Redressal of Public Grievances Rules, 1998 on humanitarian grounds.

In the result, the complaint is dismissed but the insurer is directed to refund the premiums paid by the deceased life assured till his death as ex-gratia to the complainant in view of Rule 18 of the Redressal of Public Grievances Rules,1998.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0048 / 2004 - 05
Shri G. H. Appaji Gowda
Vs.
Life Insurance Corporation of India

Award Dated 07.10.2004

Facts of The Case : One Smt. G.D. Sumithamma, W/o Shri G. H. Appaji Gowda, Occupation: Milk vendor and a resident of Channapatna Taluk in Karnataka took an endowment assurance policy in 12/2000. I under Bangalore-II Division of LIC of India. The life assured expired on 18.05.2003. The cause of death was reported to be **suicide**. Shri G.H. Appaji Gowda, the complainant and nominee under the policy referred claim with LIC. LIC repudiated the claim for the reason that the life assured committed suicide. LIC accepted the policy with restrictive clause 4(b). According to conditions applicable under Clause 4(b) claim is not payable in case life assured commits suicide within 3 years from the date of acceptance of the policy.

Decision :

I have gone into the conditions applicable under clause 4(b), which reads as follows.

“Notwithstanding anything within mentioned to the contrary, it is hereby declared and agreed that in the event of death of the life assured occurring as result of intentional self-injury, suicide, an attempted suicide, insanity, accident other than an accident in public place or murder at any time on or after the date on which the risk under the policy has commenced but before the expiry of three years from the date of this policy, the corporations liability shall be limited to the sum equal to the amount of premium ‘exclusive of extra premiums, if any paid under this policy without interest”, provided that in case the life assured shall commit suicide before the expiry of one year reckoned from the date of this policy, the provisions of the clause under the ‘suicide’ printed on the back of the policy shall apply.

In the instant case, the life assured committed suicide and died on 18.05.2003. The complainant himself reported the cause of death as suicide. The complainant also did not depute about the cause of death;

The construction of the insurance policy, which embodies the contract of insurance, is a question of law. Since the life assured committed suicide within three years from the date of policy and as the policy was also issued subject to restrictive clause, I have to hold for the reasons as aforesaid that the repudiation / rejection of the complainant’s claim for the insurance moneys under the policy is sustainable on law and on facts and hence the repudiation / rejection of the claim by the insurer does not warrant any interference at my hands;

In view the above facts, I agree that the insurer under the present condition of the policy rightly rejected the claim.

The complaint is dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0052 / 2003 - 04
Dr. Vijayalakshmi Rao
Vs.
Life Insurance Corporation of India

Award Dated 08.10.2004

Facts of The Case : Shri P. Mohan Rao, S/o Shri K. Ramchandra, Working as Professor in Mangalore University and a resident of Mangalagangothri in Karanataka took a Jeevan Suraksha insurance policy from Mangalore-1 Branch of LIC of India, under Udupi Division. The life assured died on 19.04.2002. The cause of death was reported to be Myocardial Infarction. Smt. Vijayalakshmi Rao, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 09.01.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also alleged by the LIC that the life assured about 10

1/2 months before he proposal for the insurance policy, suffered from **Lumbar Disc Prolapse** and took treatment as an **in-patient during the period 29.12.2000 to 09.01.2001 in hospital**. It was also alleged by the LIC that the life assured was also operated for the disease on 01.01.2001 and availed leave on sick grounds during the period 01.01.2001 to 24.01.2001. The admission and treatment thereto was prior to his taking the insurance policy. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

Decision : I heard the contentions of both sides and also perused all the documents placed before me.

- a. Shri P. Mohan Rao, S/o Shri K. Ramachandra, working as a Professor in Mangalore University took a Jeevan Suraksha Insurance Policy for a Sum Assured of Rs. 80000 in 01/2002. The life assured died on 19.04.2002. The cause of death was reported to "**Myocardial Infarction**". The duration of the claim was just 4 months. Since it was a very early claim, they arranged for investigation of the claim.
- b) LIC repudiated the claim as the life assured, 10 1/2 months before he proposed the insurance policy, suffered from Lumbar Disc Prolapse and took treatment in a hospital as an in-patient during the period 29.12.2000 to 09.01.2001. It was also alleged by the LIC that the life assured was also operated for the disease on 09.01.2001;
- c) In support of their repudiation action LIC obtained particulars from City Hospital Research & Diagnostic Centre, Mangalore. According to the discharge summary of the hospital, the life assured was admitted there on 29.12.2000 vide in patient No. 10864. The diagnosis arrived by the hospital, authorities was "**Prolapse Disc-multiple RL. lateral incompetence**". It was reported in the discharge summary that the life assured was admitted in the hospital with **complaints of difficulty in walking since 15 days, h/o low back ache since 8 years, noticed numbness in (L) leg**;
- d) According to the hospital records, the life assured was suffering from **lumber disc prolapse and was operated upon for the same on 01.01.2001 and discharged on 09.01.2001**;
- e) According to the information obtained by the insurer from the employer of the life assured, the insured availed leave on sick grounds during the period 01.01.2001 to 24.01.2001;
- f) As regards suppression of facts, I find that the LIC had thoroughly investigated the matter and proved to that the life assured did suppress certain events. It would be prudent to examine whether the suppressed material facts have any bearing on the assessment of risk. In this connection, we sought the opinion of Central Underwriting Section of the Corporate Office of the insurer whether the life assured could be considered, had he disclosed the above material facts at the time of executing the proposal for insurance. We are informed by the Central Underwriting Section of the Corporate Office that "persons who have undergone surgery of lumbar disc prolapse can be considered for granting insurance and the terms and conditions are generally as

applicable to standard lives”, if the reports are normal. In the instant case, the insured was operated on 01.01.2001 and was attending to his duties regularly upto his death. The death of the life assured was on 19.04.2002, after about 1 year and 4 months. Further, the cause of death was sudden myocardial infarction;

- g) It would also be pertinent to mention that the insurer could not prove that the suppressed material facts had a real nexus with the cause of death of the life assured. If there was a nexus, the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before Insurance Ombudsman to drive home its contentions;
- h) From the above, it could also be observed that by not disclosing the material facts, the insured did not gain an advantage for himself vis-a-vis other policyholders as it was not the policy of the insurer to deny policies to people who suffered from lumbar disc prolapse;
- i) The life assured was medically examined by panel doctor of the insurer and the medical report of the doctor did not throw any adverse features relating to the health of the life assured and on the basis of his report only, the policy in question was issued;
- j) The only contention of the insurer appears to be violation of the principle of utmost good faith. But the fact that the material fact not disclosed is not affecting consideration of the insured for insurance as opined by the Central Underwriting Section of the Corporate Office of the insurer and the fact that the undisclosed information apparently has no nexus with the cause of death, I am left with no alternative but to give the benefit of doubt to the life assured;
- k) Having regard to the facts and circumstances as discussed above, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the aforesaid policy.

Therefore, for the reasons as mentioned above, I hold that the repudiation of the claim of the complainant under the aforesaid policy by the insurer is not legal, correct and proper and hence I direct the Corporation to settle the claim for the Sum Assured.

The complaint is, therefore, allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0054 / 2004 - 05
Smt. M. Lakshmi
Vs.
Life Insurance Corporation of India

Award Dated 11.10.2004

Facts of The Case : Shri M. Madhusudhan, S/o late Shri M. Govindu, doing fancy business and a resident of Kurnool District took a life insurance Policy form Kurnool Branch of LIC of India, under Cuddapah Division. The life assured suddenly died on 29.04.2003. The cause of death was reported to be heart attack. Smt. M. Lakshmi, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 12.11.2003, citing the reason that the life assured, while executing the proposal for insurance on 14.02.2003, gave false answers to certain questions in the proposal form submitted by him. It was stated by the LIC that they held indisputable proof to show that the life assured suffered from peptic ulcer and consulted a doctor and took treatment from him, prior to taking the policy. He, however, did not disclose these facts in the proposal form executed by him on 14.02.2003. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision :

I heard the contentions of both and also perused all the documents including the written submissions of both the parties :

- i) The life assured took an Endowment Assurance Policy in 02 / 2003 for a Sum Assured of Rs. 1,00,000. The life assured was doing fancy business. The mode of payment of premium was quarterly. The life assured died on 29.04.2003. The duration of the claim from risk date was just 3 months and 15 days. Since it was a very early claim, the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim as the life assured was reported to have deliberately suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from peptic ulcer and took treatment from a doctor, prior to taking the policy;
- iii) In support of their repudiation, the insurer obtained and submitted treatment particulars from Dr. P. Sivarajappa in the form of medical prescription dated 09.09.2002 and claim form no. 5152 duly completed by Dr. Mohamad Ali. According to the medical prescription of Dr. P. Sivarajappa, the insured consulted him on **09.09.2002** with complaints of **abdomen burning sensation**. As per the treatment particulars obtained by the insurer in form no. 5152 duly stamped from Dr. Mohammad Ali, the insured consulted him on **05.11.2002 with complaints of burning sensation of the stomach, vomiting and pain abdomen**. The duration was reported as one year. The diagnosis arrived by the doctor was **gastritis (peptic ulcer)**;
- iv) Dr. Siva Rajappa prescribed Tab: Dom DT; Febrex plus; Tab: Pantop. The medicines prescribed were for treatment of ulcer;
- v) According to Mosby's Medical Dictionary 2003 (Page No. 858), the implications of peptic ulcer are "a sharply circumscribed loads of the mucous membrane of the stomach or duodenum or any other part of GI system. Peptic ulcers are caused by a combination of poorly understood factors, including an excessive secretion of gastric acid, inadequate protection of the mucous membrane, stress, heredity and the taking of certain drugs. The use of tobacco and alcohol is discouraged";
- vi) According to the same dictionary (Page No. 474), the implications of gastritis are "an inflammation of the lining of the stomach that occurs in two forms. Acute Gastritis may be caused by severe burns, major surgery, aspirin or other anti-inflammatory agents, corticosteroids, drugs, or food allergens or by the presence of viral, bacterial, or chemical toxins. The symptoms - anorexia, nausea, vomiting and discomfort after eating. Chronic gastritis is usually a sign of underlying disease, as peptic ulcer, stomach cancer";
- vii) The investigating official of LIC who investigated into the bonafides of the claim also reported that the life assured was not keeping in good health and was consuming taddy;
- viii) All the above events when chronologically arranged would establish the fact that the life assured was not enjoying good health at the time of executing the proposal for insurance but deliberately suppressed all the material facts which were well within his knowledge to the insurer and induced them for obtaining the insurance;
- ix) Section 45 of the Insurance Act 1938 was not applicable under the claim. The implication is that the insurer need not establish fraudulent intent on the part of the life assured. As the contract of insurance being a contract of **Ubberima fide**, there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant to the insurer to take into account while deciding whether the proposal for insurance should accepted or not or should be accepted subject to certain conditions. while making a disclosure of the relevant facts the duty of the insured to state them truly and correctly cannot be watered down;

- x) It is also pertinent to note that if two years have not been elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance;
- xi) The insurer in the present case has repudiated the claim invoking the provisions of the first part of Section 45 of the Insurance Act 1938. In other words, they have not only proved palpably false but also inaccurate, incorrect and misstatement of facts by the life assured at the time of executing the proposal for insurance. Therefore, the policy is justifiable declared null and void. The decision of LIC is, therefore, legal, correct, proper and justified in the case on hand and does not call for my interference with their decision.

In the aforesaid circumstances, the complaint fails and is, therefore, dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0016 / 2004 - 05
Smt. K. Siddamma
Vs.
Life Insurance Corporation of India

Award Dated 15.10.2004

Facts of The Case : Shri Konedala Nagesara Rao, S/o Shri K. Raghavaiah, doing tractor business and a resident of Nellore took an Endowment Assurance Policy Nellore - II Branch of LIC of India, under Nellore Division. The life assured died on 18.02.2003. The cause of death was reported to be **heart attack**. Smt. K. Siddamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 29.10.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also alleged by the LIC that the life assured suffered from **diabetic nephropathy even before he proposed the policy** and took treatment for the same in a hospital. He, however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form executed by him on 30.5.2002. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

Decision : I heard the contentions of both sides and also perused all the documents placed before me.

- i) Shri K. Nageswara Rao, S/o Shri K. Raghavaiah, a resident of Nellore took an endowment insurance policy on 05 / 2002 for a Sum Assured of Rs. 1,99,000 by executing the necessary proposal on 30.05.2002. He died on 18.02.2003. The duration of the claim was just 9 months only. The cause of death was reported to be "**heart attack**". Since it was a very early claim, they arranged for investigation of the claim;
- ii) Their investigations revealed that the life assured suffered from **diabetic retionopathy and diabetic nephropathy** even before the life assured executed proposal for insurance and took treatment for the same prior to taking the insurance policy. Since the life assured suppressed these material facts, the claim under the policy was repudiated by LIC;
- iii) In support of their repudiation action, LIC obtained treatment particulars from Bollineni Super Speciality Hospital, Nellore in the form of case records. According to the hospital records of the hospital, the life assured was admitted there on 10.08.2002 vide case sheet no. 9777 with complaints of **diabetic nephropathy - end stage renal disease (ESRD) on OP follow - up**. According to the hospital records, the life assured was

admitted with **diabetic pulmonary edema / severe azotaema, accepted with peritoneal dialysis;**

- iv) It was also reported by the hospital authorities on page no. 4 of the case sheet that the life assured was already explained to about **renal replacement therapy (RRT) 3 months back** and the acceptance of the insured was unclear;
- v) The final diagnosis arrived by the hospital authorities was "**end stage renal disease - diabetic retinopathy - diabetic nephropathy - NIDDM - Koch's adenitis**";
- vi) According to Mosby's Medical Dictionary 2003 (page no. 339), the implications of diabetes mellitus are "A complex disorder of carbohydrate, fat, and protein metabolism that is primarily a result of a relative or complete lack of insulin secretion by the beta cells of the pancreas or of defects of the insulin receptors. The disease is often familiar but may be acquired, such as in Cushing's syndrome, as a result of the administration of excessive glucocorticoid".
- vii) According to the same medical dictionary (Page No. 340), the implications of diabetic retinopathy are : "A disorder of retinal blood vessels characterized by capillary microaneurysms, hemorrhage, exudates, and the formation of new vessels and connective tissue. The disorder occurs most frequently in patients with long - standing, poorly controlled diabetes. Repeated hemorrhage may result in permanent opacity of the vitreous humor, and blindness may eventually set in. Photocoagulation of damaged retinal blood vessels by a laser beam may be performed to prevent hemorrhage from the vessels. Rarely, cloudy vitreous humor is surgically removed by vitrectomy".
- viii) Similarly according to the same dictionary (Page No. 978), the implications of renal failure are: "Inability of the kidneys to excrete wastes, concentrate urine, and conserve electrolytes. The condition may be acute chronic.

Chronic renal failure may result from many other diseases. The early signs include sluggishness, fatigue, and mental dullness. Later, anuria, convulsions, GI bleeding, malnutrition, and various neuropathies may occur. The skin may turn yellow, brown and become covered with uremic frost. Congestive heart failure and hypertension are frequent complications, the results of hypervolemia. Urinalysis reveals greater than normal amounts of urea and creatinine, waxy casts, and a constant volume of urine regardless of variations in water intake. Anemia frequently occurs. The prognosis depends on the underlying cause. Treatment usually includes restricted water and protein intake and the use of diuretics. When medical measures have been exhausted, longterm hemodialysis is often begun, and kidney transplantation is considered.

- ix) According to Stedman's Medical Dictionary (27th edition), the implications of nephropathy are ; "Nephropathy - Any disease of the kidney, causing organic renal disease or impairment of renal function".
- x) Incidentally, there was also clear nexus between the material facts suppressed and the cause of death of the life assured on 18.02.2003.
- xi) All the above events when chronologically arranged would establish the fact that the life assured was not enjoying good health at the time of executing the proposal for insurance but deliberately suppressed all the material facts which were well within his knowledge to the insurer and induced them for obtaining the insurance;
- xii) Section 45 of the Insurance Act 1938 was not applicable under the claim. The implication is that the insurer need not establish fraudulent intent on the part of the life assured. As the contract of insurance being a contract of **Ubberima fide**, there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant to the insurer to take into account while deciding whether the proposal for insurance should be accepted or not or should be accepted subject to certain conditions. While making a disclosure of the relevant facts the duty of the insured to state them truly and correctly cannot be watered down;

- xiii) It is also pertinent to note that if two years have not been elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance;
- xiv) The insurer in the present case has repudiated the claim invoking the provisions of the first part of Section 45 of the Insurance Act 1938. In other words, they have not only proved palpably false but also inaccurate, incorrect and misstatement of facts by the life assured at the time of executing the proposal for insurance. Therefore, the policy is justifiably declared null and void. The decision of LIC is, therefore, legal, correct, proper and justified in the case on hand and does not call for my interference with their decision.

In the aforesaid circumstances, the complain fails and is, therefore, dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0095 / 2004 - 05
Smt. T. Satyavathy
Vs.

Life Insurance Corporation of India

Award Dated 15.10.2004

Facts of The Case : One Shri Tadi Chandra Reddy, S/o Shri Peda Reddy, doing cultivation and a resident of East Godavari District in Andhra Pradesh took a Life Insurance Policy from Ramachandrapuram Branch of LIC of India, under Rajahmundry Division. The life assured died on 05.03.2003. The cause of death was reported to be heart attack. Smt. T. Sathyavathi, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 03.11.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **Hypertention and Diabetes** and took treatment for the same. He, however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision :

I heard the contentions of the insurer and also perused all the documents including the written submissions of both parties.

- i) The life assured took an Endowment Assurance Policy on 09/2002 for a Sum Assured of Rs. 25,000. The life assured was doing cultivation and was a resident of Machavaram in East Godavari District. He died on 05.03.2003. The duration of the claim from risk date was just 5 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from hypertension and diabetes and took treatment from a doctor at Primary Health Centre, Machavaram, prior to taking the insurance policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Medical Officer, Primary Health Centre, Machavaram. According to the treatment particulars obtained by the insurer in the form of hospital records, the life assured consulted the Primary Health Centre, Machavaram as outpatient on 19.07.2002 (S. No.

22/7069); 09.08.2002 (S. No. 5/7897); 20.08.2002 (S. No. 29/8298); 11.09.2002 (S. No. 7/9176) and 12.09.2002 (S. No. 1/9250);

- iv) In support of their repudiation, the insurer also obtained a medical certificate issued by Primary Health Centre, Machavaram. The Medical Officer reported that the life assured was under his treatment for **hypertension and diabetes since July 2002** to January 2003;
- v) The consultation and treatment referred to above was just 2 months prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy.
- vi) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 5 months and the life assured paid just one half - yearly premium of Rs. 870.00.
- vii) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- viii) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law and well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0046 / 2004 - 05
Shri Bolem Raju Babu
Vs.

Life Insurance Corporation of India

Award Dated 18.10.2004

Facts of The Case : One Shri Bolem Venku Naidu, S/o Shri Nookayya doing rice business and a resident of Narsipatnam Mandal under Visakhapatnam District took an Asha Deep Life insurance Policy from Narsipatnam Branch of LIC, under Visakhapatnam Division. The mode of payment of premium was yearly. The policy lapsed due to non-payment of premium due 12 / 1997 in time. The life assured got the policy revived on 02.09.1998 by paying the arrears of premium and also submitted health requirements, as advised by LIC. Subsequently, the life assured died on 01.12.2000. The cause of death was reported to be sudden - fever. Shri Bolem Rajubabu, the complainant and nominee under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving the lapsed policy on 02.09.1998, gave false answers to certain questions in the declaration of good health form submitted by him. It was alleged by the LIC that they held indisputable proof, to show that there was gross

understatement of age by the life assured by 25 years at the time of taking the policy as also at the time of revival of the policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his age at the time of taking the insurance policy and at the time of revival of the policy, the insurer repudiated the claim.

Decision :

I heard the contentions of the insurer and perused all the documents, including the written submission of the complainant, placed before me.

- a) The life assured late B. Venku Naidu, doing rice business and a resident of Narsipatnam Mandal in Visakhapatnam District took an Asha Deep Insurance Policy in 12/1996. The mode of payment of premium was yearly. The life assured did not pay the premium due 12 / 1997 in time. As such, the policy lapsed. Later, the life assured got the policy revived on 02.09.1998 by paying the arrears of premium and also submitted health requirements, as advised by the insurer. The life assured died on 01.12.2000. The cause of death was reported as **sudden fever**. Since the duration of the claim from revival was between 2 to 3 years, the LIC arranged for investigation of the claim;
- b) LIC repudiated the claim under the policy on 30.03.2002, as the life assured had fraudulently suppressed material facts relating to his age, prior to taking the insurance policy and revival of the policy;
- c) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to know the salient features of age proof. Proof of age in connection with a life insurance policy is important in two respects. (1) It is a condition precedent to the liability of the insurer, for, the policy says "the Corporation will pay the sum assured, upon proof of the correctness of the age of the life assured stated in the proposal. If that is not done to the satisfaction of the insurers, their liability does not arise' and (2) proof of age is very essential and material for the assessment of the risk and hence the proposer should state his correct age. The rate of premium payable depends upon the age on the date of risk. The insurer may require proof of age to be furnished at the time of the proposal itself or at any time after issue of the policy;
- d) In the instant case, the insurer repudiated the claim as there was a gross understatement of age by the life assured by 25 years. In support of their repudiation action, the insurer obtained an affidavit dated 30.03.2002 executed by Dr. P. Ramachandra, wherein the doctor reported that the life assured had undergone surgery for chronic duodenal ulcer 10 years back and that the approximate age of the insured was 75 years;
- e) At the time of submitting the proposal, the life assured submitted school certificate issued by M. P. P. School, Kothamallammampeta vide Admission No. 23/217 dated 15.08.1951. As per this certificate, the date of birth of the life assured was recorded as 05.07.1946. But the same school authorities vide their certificate dated 29.11.2001 reported that one Shri Polireddy Yerrayya studied III Class vide admission no. 23 / 217 in the year 1954 - 1955. This evidence established the fact that the certificate submitted at the time of taking the policy was not a correct document;
- f) According to the votes list pertaining to Neelampeta Gram panchayat prepared by the government authorities during the year 1999 submitted by the insurer, the age of the life assured was recorded as 79 years. This further substantiated the fact that there was understatement of age compared to the age of the life assured at the time of proposal by 26 years;
- g) The son of the life assured Shri B. Raju Babu, who incidentally happened to be the complainant under the policy, took a policy bearing no. 690409353 from the same insurer by submitting age proof as school certificate. As per this certificate, his age was recorded as 28.11.1955. Surprisingly, the life assured late Venku Naidu furnished his

date of birth as 05.07.1946 at the time of taking the policy, which could not be definitely correct as he could not been blessed with a son when he was only nine years old;

- h) According to the underwriting norms of LIC, had the life assured disclosed his correct age at the time of taking the policy, they would not have considered the insured for insurance as he was uninsurable;
- i) All the evidences submitted by the insurer when chronologically arranged, would clearly establish the fact the life assured did not disclose his correct age and that there was gross understatement of age;
- j) Further, the claimant had not disputed the contentions of the insurer and not produced authenticated and reliable documents to counteract the indubitable proof of age placed by the insurer. He has not even produced any documentary evidence like birth certificate or school certificate to prove that there was no understatement of age and that his date of birth was 05.07.1946 only. Hence, the insurer was well within its right to repudiate the claim made by the complainant. If the insurer was made aware of the real date of birth of the insured, the insurer would not have accepted the proposal for insurance;
- k) In view of the above facts and the documents produced by the insurer, which clinchingly proved the fact that there was gross understatement of age by the life assured, the repudiation of the claim made by the insurer is legal and correct and does not call for any interference at my hands.

In the result, the above complaint fails and accordingly the complaint is dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0246 / 2004 - 05
Smt. Neyyala Ammaji
Vs.
Life Insurance Corporation of India

Award Dated 20.10.2004

Facts of The Case : One Shri Neyyala Santha Rao, S/o Shri Appalaswamy, working as lineman in A.P. Transco and a resident of Tekkali Mandal in Shrikakulam District took the above three insurance policies from Palasa Branch of LIC under Visakhapatnam Division. All the policies cover the risk of Double Accident Benefit. The life assured, seen moving on his moped on the intervening night of 28/29.10.2003, was found dead. Basic Sum Assured under all the three policies was settled by the LIC. Smt. M. Ammaji, with complaint and nominee under the policy, lodged a claim with the LIC for payment of double accident benefit under the policies, as according to them the cause of death was accident. However, the claim for Double Accident Benefit was rejected/repudiated by the insurer on the ground that the cause of death was not an accident and that it was on account of heart attack. Further, the insurer also alleged that the cause of death did not conform the provision relating to accident benefit of the policy.

Decision : I heard the contentions of both sides and also perused all the documents, including the written submissions of the complainant, placed before me.

- a) The life assured late Neyyala Santha Rao, R/o. Shri Appala Swamy, working in A.P. Transco and a resident of Tekkali Mandal in Srikakulam District took three life insurance policies for a sum assured of Rs. 165000. All the three policies covered the risk of double accident benefit, in case of death of the life assured in an accident. The life assured died on 28.10.2003. The insurer settled all the claims for Basic Sum Assured including accrued benefits. However, the insurer rejected/repudiated the claims for accidental benefit under the policies that the cause of death was not on account of accident ;

- b) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to know the salient features of the relevant clause governing Accident Benefit under a policy. "10.2:If at any time when this policy is in force for full sum assured the Life Assured before the expiry of the period for which the premium is payable is involved in an accident resulting in either in permanent disability or **death** and the same is **proved to the satisfaction of the Corporation**, the Corporation agrees in the case of : (b) Death of the Life Assured: To pay an additional sum equal to the Sum Assured under this policy, if the Life Assured shall sustain any bodily injury resulting **solely and directly from the accident caused by outward, violent and visible means** and such injury within 180 days of its occurrence **solely, directly and independently of all other causes result in the death of the life assured"**;
- c) In the instant case, the insurer obtained first information Report (FIR), Post Mortem Report (PMR) and Police Inquest Report (PIR) in Cr. 60/2003. The FIR was filed by one Shri Chandramouli who reported to the police that he found the life assured lying dead on the road side on 29.10.2003 and could not find any external injuries to the body of the life assured and the there was change in the colour of the body ;
- d) According to Panchanama, there were no external injuries to the deceased body and no damage happened to the vehicle of the insured. The Panchayatdars opined that the deceased might have died due to his illness or unknown disease;
- e) On a perusal of the Post Mortem Report, it is observed that "there were no external injuries on the body" and the Post Mortem Report opined the cause of death as "**Cardio Respiratory arrest due to vital head injury**";
- f) The paper clipping submitted by the complainant did not mention anything about injuries either to the deceased or to the vehicle;
- g) The Sub Inspector of Police, Nandigam Police Station in his case diary and report submitted to Hon'ble Court, opined the cause of death as heart attack and the requested to treat the case as **action dropped**;
- h) The construction of the policy bond which is the basic of the contract of insurance is a question of law and its true and correct interpretation would give jurisdiction to the authority to pronounce upon the deficiency in service, if any;
- i) The relevant policy condition governing payment accident benefit is very clear. Almost all the reports/documents submitted by the insurer militate against the proposition that the death of the life assured was on account of accident, as defined in the policy condition;
- j) However, the point that requires serious consideration is the final opinion of the Post mortem Report on which the complainant is also pleading of consideration of the accident benefit under the policies. Post Mortem Report of a qualified medical doctor should be given due consideration in this case in the absence of eye witnesses and owing to the technical incompetence of Police and Panchayatdars to pronounce on the panchayatdars and the police were not at all specific about cause of death and they spoke of 'unknown disease', 'some illness' etc.
- k) The post Mortem Report attributes death of the deceased life assured to Cardio Respiratory Arrest due to Vital Head Injury. Cause of the death, thus, was in autopsy to be vital head injury. The deceased life assured died while riding on scooter. When he fell down from the scooter, he must have sustained head injury. The scooter might have fallen owing to sudden bump of something external. Unfortunately, the complainant, wife of the deceased life assured, was too poor and illiterate to muster sufficient resources to cause proper investigation to establish accident. The insurer relies on the observation that there were was no external injuries on the body of the deceased life assured. It is not always the case that a fatal, internal development is accompanied by external injuries. However, in this case, the change in the colour of the body was acknowledged by all and, thus, there is some external evidence. Thus, though it is not

established beyond all doubt that the death was owing to an accident, the possibility cannot be ruled out. And some benefit of doubt needs must be accorded. Further, the complainant is also illiterate and belongs to a rural area. Therefore, I am of the view that it is just and proper to meet ends of justice, I direct the insurer to make a payment of Rs. 50000 (Rupees Fifty thousand only) as Ex-gratia by invoking Rule 18 of the Redressal of Public Grievances Rules, 1998, on humanitarian grounds.

- 1) In the result, the complaint is dismissed but the insurer is directed to pay a sum of Rs. 50000 (Rupees Fifty thousand only) as Ex-gratia to the complainant in view of Rule 18 of the Redressal of Public Grievances Rules 1998.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0040 / 2004 - 05
Smt. K. R. Chandrika
Vs.

Life Insurance Corporation of India

Award Dated 25.10.2004

Facts of The Case : One Shri Kanugo Ramadas, S/o Shri K. Ramachandra Rao, working as Deputy Superintending Engineer at Srisaillam Project in Kurnool District took a Jeevan Suraksha (Endowment Funding) Insurance Policy in 01/2001 from Kurnool Branch of LIC of India, under Cuddpah Division. The mode of payment of premium was yearly. The life assured died on 02.11.2002. The cause of death was reported to be **heart attack**. Smt. K.R. Chandrika, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal form dated 28.01.2001. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he suffered from **Cardiomyopathy and diabetes** and took treatment in a hospital during the periods **27.07.1998 to 30.07.1998 and 16.02.1999 to 18.02.1999**. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Instead, he gave false answers. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of the insurer and also perused all the documents including the written submissions of the complainant:-

- i) The life assured took a Jeevan Suraksha (Endowment Funding). Insurance Policy in 01/2001 for a Sum Assured of Rs. 50000. The life assured was working as Deputy Superintending Engineer. The mode of payment of premium was yearly. He died on 02.11.2002. The cause of death was reported to be heart attack. The duration of the claim from risk date was 1 year and 9 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had deliberately suppressed material facts relating to his health while executing the insurance policy in 01/2001. According to the insurer, the life assured suffered from cardio-myopathy and diabetes and took treatment for the same during the periods 27.07.1998 to 30.07.1998 and 16.02.1999 to 18.02.1999, prior to taking the insurance policy.
- iii) Section 45 of the Insurance Act 1938 was applicable under the claim as the insurer repudiated the claim after expiry of two years from the date of commencement of the policy. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act 1938. The said section provides, inter-alia, that no policy of life Insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of

the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a facts which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to disclose the said provision lays down three conditions for the applicability of the second part of the section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclosed. (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;

- iv) In support of their repudiation, the only evidence obtained and submitted was Claim Form B1 obtained by them from Mahavir Hospital & Research Centre, Hyderabad. According to information obtained by the insurer in their claim forms B/B1 from this hospital, the life assured was admitted in the hospital on 27.07.1998 and took treatment upto 30.07.1998. Again, the life assured was admitted in the hospital on 16.02.1999 and took treatment upto 18.02.1999. It was reported by the hospital authorities that the life assured was "a known case of cardiomyopathy with CHF and DM:HTN was detected recently". Further, the other diseases which co-existed were reported as "Diabetes and Hypertension". It was also reported by the hospital authorities than the insured was having diabetes since 1997 and hypertension since June 1998;
- v) The final diagnosis arrived by the hospital authorities was "CAD:Ischemic Cardiomyopathy-Sever LV Dysfunction, diabetes and hypertension";
- vi) But it is strange that the insurer could not obtain any case sheet or treatment particulars like details of admission / consultations and treatment particulars like details of medicines prescribed and any pathological tests conducted conforming that the life assured had heart problem/diabetes/hypertension. These details are very essential to sustain their repudiation action, especially, when the repudiation was done after two years and 2nd part of Section 45 of the Insurance Act 1938 was applicable. Although the life assured was reported to be having hypertension since 06/1998, the insurer could not secure any evidence relating to BP reading. The insurer solely relied upon the history recorded by the hospital authorities and repudiated the claim without obtaining the relevant case records and other documents to strengthen their repudiation. Even according to Column (9) on Page 2 of the Form B1, when the deceased life assured was discharged, his condition was "controlled CMF, Hypertension, and Diabetes". Deceased life assured could be under the impression that his condition was normal when he was discharged after just two days in the hospital;
- vii) The life assured was also medically examined by the panel doctor of LIC who found the life assured to be medically fit for insurance and accordingly, the policy in question was issued. In the instant case, the insured paid premiums for 2 years out of 5 years;
- viii) Since Sec. 45 is applicable under the claim, the onus is on the insurer to establish fraudulent intent on the part of the life assured. The only contention of LIC appears to be violation of the principle of utmost good faith. Fraudulent intent on the part of the insured has not been proved doubt by the insurer with sufficient evidence;
- ix) Having regard to the facts and circumstances of the case as discussed above and also the manner in which the claim made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities and in the absence of any supportive or concrete evidence to the effect that the life assured had fraudulently suppressed material facts relating to his health prior to taking the insurance policy, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above claim further, the repudiation action of the insurer did not fulfill all the three ingredients required for repudiation of claim under the 2nd part of Section 45 of the Insurance Act. 1938;

- x) Therefore, for the reasons as aforesaid, I hold that repudiation of the claim under the policy by the insurer is not legal, correct,, proper and justified;
- xi) I, therefore,, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0134 / 2004 - 05
Smt. K. Gowridevamma
Vs.

Life Insurance Corporation of India

Award Dated 26.10.2004

Background : Shri Kolukondu Veerabhadraiah, S/o Shri K. Deevaiah, doing cultivation and a resident of Kurnool District took the above life insurance policy from Banganapali Branch under Cuddapah Division. The life assured died due to paralysis on 12.08.2002. The insured, while proposing his life for insurance, understated his age by 12 years and thereby inducted the insurer for issue of the policy. According to the insurer, had the life assured disclosed his correct age of 67 years at the time of taking the insurance policy, they would not have issued the insurance policy, as the life assured was not eligible for insurance at all. In view of suppression of material facts relating to his age by the life assured, LIC repudiated the claim under the policy.

Decision : I have carefully perused the papers placed before me and heard the arguments presented by both the sides.

- i) The life assured took an Endowment Assurance Policy for a Sum Assured of Rs. 50,000 in 06/2001. At the time of taking the insurance policy, the insured furnished his age as 55 years and based on his statement, the policy under dispute was issued. He died on 12.08.2002. The insurer arranged for investigation into the bonafides of the claim;
- ii) The investigations revealed that the age furnished by the life assured was not correct and that there was gross understatement of age by 12 years by the insured. As such, the life assured was not eligible for insurance and the claim was, therefore, repudiated by the insurer;
- iii) In support of their repudiation action, the insurer obtained and submitted copy of the voters' list dated 01.01.2002 of Nandyal mandal in Kurnool District of Andhra Pradesh prepared by the government authorities;
- iv) According to the voters list referred in (iii) above, the age of the life assured was recorded as 67 years. Based on this, the age of the life assured as on the date of taking the insurance policy was 67 years. But he had disclosed his age as 55 years whereby there was a gross understatement of age by 12 years as on the date of taking the policy.
- v) The complainant submitted a copy of the ration card. According to the ration card the name of the life assured was mentioned as "Jangam Veerabhadraiah S/o Veeraiah". But as per the proposal, the name of the life assured was "Kolukondu Veerabhadraiah S/o Shri K. Dheevaiah". The hospital record as also the death certificate issued by the revenue authorities confirm the name of the life assured as furnished in the proposal from at the time of taking insurance policy.
- vi) According to the treatment particulars obtained by the insurer from Gowri Gopal Hospital, Kurnool, the insured was admitted there on 18.7.2002. As per the hospital records viz (a) clinical chart of temperature etc. & (b) in-patient registration record, the age of the life assured was recorded there as 68 years, but later in some places it was corrected.

Even Shri K.V. Nageswaraiah, S/o Shri K. Veerabhadraiah, while admitting his father in the hospital, declared the age of the life assured as 68 years and the life assured had also affixed his thumb impression to the declaration;

- vii) According to the underwriting norms of LIC, had the life assured disclosed his correct age of 67 years at the time of taking the insurance policy, LIC would not have issued the policy in question as the life assured was not eligible for insurance;
- viii) It would be pertinent to mention here that proof of age in connection with a life insurance policy was important in two respects (a) It is conditions precedent to the liability of the insurer and (b) Secondly, proof of age was very material for the assessment of the risk and hence the life assured should state his correct age. The rate of premium payable depends upon the age at the date of the risk. The insurer, therefore, requires proofs of age to be furnished by the life assured at the time of taking the insurance policy;
- ix) Though the complainant disputed the authenticity of the voter's list on the basis of which the claim was repudiated by the insurer, she failed to submit any other concrete evidence and prove that there was no understatement of age by the insured;
- x) It is settled law that the contract of insurance is based on good faith. It is for life assured to give the correct information relating to his age at the time of executing the proposal for insurance, which he did not disclose at that time. This ground of incorrect information and false statements regarding age of the insured make the insurance contract null and void. The insurer is, therefore, well within its right to repudiate the claim made by the complainant.
- xi) In connection with the acceptance of age from the voters' list, the A.P. State commission disputes Redressal Commission Hyderabad in case No. FA No. 612/1997 of P.Sundarma Vs. LIC of India, held that entries made in the voter's list was a public document since it was prepared by a public servant in discharge of his duties and hence the entries made therein were admissible as presumptive evidence. It was also held that the certified extracts of electoral rolls and family members of a village, which were public documents, were admissible in evidence to prove the contents as presumptive evidence. The burden would be on the other party to prove that the entries were incorrect;
- xii) Therefore, I have to hold, for the reasons as aforesaid and also in the light of the evidences available on record as referred to above, the repudiation of the claim by the insurer is legal, proper and correct and does not require any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0212 / 2004 - 05

Smt. K. Rajitha

Vs.

Life Insurance Corporation of India

Award Dated 28.10.2004

Background : One Shri Kothapally Rajender Reddy, S/o Shri K. Venkat Reddy, working as police Constable and a resident of Mahaboobnagar took the above insurance policy from Mahaboobnagar Branch of LIC, under Hyderabad Division. The policy covered the risk of an accidental benefit, in case of death by accident, as per the policy conditions. The life assured died on 22.04.1996. The cause of death was reported to be murder. LIC settled the claim for Basic Sum Assured but repudiated/rejected the claim for accidental benefit invoking the policy condition clause 8(b)(i), alleging that the death of the life assured was caused by immorality and that the life assured was under the influence of alcohol, when he was murdered.

Decision : I have carefully perused the papers placed before me including the written submissions of the complainant and also heard the arguments of both sides.

- a) The life assured took a Bima Kiran life insurance policy in 09/1994 for a Sum Assured of Rs. 200000. The policy covered the risk of accident benefit in case of the death of the life assured by accident. He died on 22.04.1996. The cause of death was reported to be murder. Since it was an early claim, LIC also arranged for investigation of the claim.
- b) LIC settled the claim for Basic sum assured but repudiated/rejected the claim for accident benefit on the grounds that the immorality committed by the assured lead to his Murder (death) and that insured was also under the influence of intoxicating liquor at the time of commission of the alleged murder. Their investigations revealed that the life assured committed breach of law by indulging in immoral/illegal act. Besides this, the insurer found that the life assured, according to the policy reports, especially the court verdict, FIR and final report of the police, was under the influence of alcohol when the murder took place. In support of their contentions, the insurer also obtained police reports _____ in _____ Cr.No. 88/96;
- c) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to know the salient features of the relevant clause governing the Accident benefit under a policy. "10.2:If at any time when this policy is in force for full sum assured the Life Assured before expiry of the period for which the premium is payable is involved in an accident resulting in either in permanent disability or death and the same is proved to the satisfaction of the Corporation, the Corporation agrees in case of death of the life assured : To pay an additional sum equal to the Sum Assured under this policy, if the Life Assured shall sustain any bodily injury resulting solely and directly from the accidental injuries caused by outwards, violent and visible means and such injury within 180 days of its occurrence solely, directly and independently of all other causes result in the death of the Life Assured". The Corporation shall not be liable to pay the additional sum referred above if the death of the life assured shall be caused by intentional self injury, attempted suicide, insanity or immorality or whilst the life assured is under the influence of intoxicating liquor, drug or narcotic;
- d) The two grounds cited by the insurer for denying the accident benefit are immorality and consumption of alcohol. As far as immorality is concerned, it would be very much pertinent to refer to the verdict of Hon'ble Court as also report of the Superintendent of the Police. These two documents did not establish even an iota of immorality committed by the life assured. According to the police reports, the insured just accompanied his colleague late Mahendra Reddy, who was the other deceased. The police reports did not mention any illicit or immoral contract/connection of the life assured with the accused J. Ramadevi. When that be the situation, it is not known as to how the insurer concluded that the life assured had immoral or illicit contract / connection with the accused and displayed immoral conduct;
- e) As regards the other allegation that the life assured was under the influence of alcohol, it would be more appropriate to refer to post mortem report. The medical Officer opined that the body was in a decomposed state and found some external injuries. Finally, the Medical Officer opined the cause of death as "due to fracture of skull, shock and hemorrhage". Further, the examination of stomach did not indicate presence of alcohol content instead, contained only rice particles. Had the authorities preserved the content and referred to FSL, Hyderabad for chemical analysis, perhaps, it would have thrown some light. But this was not done for reasons best known to the police authorities. Even presuming that the life assured consumed alcohol, he had not done any act violating breach of law, as in the case of driving a vehicle etc. Instead, he was murdered. The provisions of Early Claim Investigation in respect of 'Murder can be provoked or unprovoked. If, the papers show that it was unprovoked, the AB would be payable. If,

however, the murder was caused by provocation on the part of the deceased, care should be taken to see whether the police report or criminal proceedings contain sufficient evidence in support of the provocation and if they do, the AB could not be payable'. All the available documents in the file did, not establish any evidence to show that there was provocation on the part of the life assured. Another important document is the verdict of the court. All the witnesses mentioned in the judgement, turned hostile and retracted their earlier statements, including the statement about the intoxication of the life assured, given to police, on the basis of which the police preferred the charge sheet. Therefore, the prosecution also failed to establish the alleged offence committed by the accused; and therefore, the latter were all acquitted. The Superintendent of Police in his communication/reports addressed to the Director General of Police reported that the death/murder of the life assured was only by anti social elements who were involved in many crimes as the life assured was coming in the way of their activities.

- f) The insurer relied entirely on the police investigation reports, FIR and Charge Sheet preferred in the Criminal Court for repudiating the claim of the complainant. According to the insurer, the police have proved immoral conduct on the part of the life assured when he was murdered. Ultimately, on trial, the charge of the police was held by the judge to be not at all established.
- g) All that one could say is that the insurer rushed to a conclusion based on FIR and Police Inquest Report ignoring the final outcome of the trial by the court.

Thus, the repudiation/rejection of the complainant's claim for accident benefit is neither legal nor correct and hence the decision of the insurer warrants interference at my hands and accordingly, I direct the insurer to settle the claim for a accident benefit also.

The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0183 / 2004 - 05
Smt. Adilakshmi
Vs.
Life Insurance Corporation of India

Award Dated 2.11.2004

Background : One Shri K. Srinivas Reddy, Clerk in a Private firm, Hyderabad, took the above insurance policy from BHEL Branch under Secunderabad Division. The life assured died on 30.04.2001 due to Tubercular Meningitis. The LIC repudiated the claim made by the complainant citing the reason that the assured, while taking the policy on 14.10.1999 did not disclose the fact that he was suffering from TB and Lymphadinitis for the last one year and was on ATT. It was also alleged that the life assured gave false answers to certain questions in the proposal form and personal statement of health. The LIC further claimed that they held indisputable proof of show that the life assured was suffering from Tuberculosis and Lympharidnitis from 1998. From a date prior to the date of proposal. He however, did not disclose these facts in the proposal form and personal statement of health. Instead he gave false answers. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

Decision : I heard the contentions of both the sides and also perused the documents placed before me:

- i) The life assured took an endowment assurance policy for a sum assured for Rs. 100000 in 10/1999. He died on 30.04.2001. The cause of death was reported to be Tuberculosis-Meningitis. The Duration of the claim was just 1 year and 6 months. Since

it was a very early claim, the insurer arranged for investigation into the bonafides of the claim;

- ii) The claim was repudiated by the insurer alleging that the insured suffered from tuberculosis-lymphandinitis even before he proposed for the policy but did not disclose the same while executing the proposal for insurance on 05.10.1999;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from NIMS Hospital, Hyderabad. According to the case records of the hospital, the life assured was admitted there on 19.04.2001 vide hospital no. 106690. The life assured died in the hospital, while undergoing treatment on 30.04.2001. The primary cause of death was **"Tubercular Meningitis with vasculitis and the secondary cause of death was Miliary TB Retroviral Disease"**;
- iv) According to a note dated 19.04.2001 in the case record (progress record) of NIMS, the deceased life assured had "past H/O Kochs cervical Adentis (biopsy Proved...) in nov'99 started on AttX 6 months ". The disease, according to this note, was diagnosed in November, 1999, about a month after the policy under consideration was accepted by LIC on 14.10.1999.;
- V) It was noted again on 20.04.2001 in the same case record of the hospital that the life assured's was **a case of tuberculosis lymphanditis-had antitubercular treatment (ATT) for one year in 1998. Again for the last 3 months, patient was having low grade fever with loss of appetite"**. This note speaks of the disease and treatment dating prior to the purchase of policy; and it seems to contradict the note on 19.04.2001(supra);
- vi) Again, in Col. 7(a) & (b) of Claim Form B-1, NIMS answers "(a) Tubercular cervical lymphanditis", (b) "November 1999". This answer from Nims puts the history of the disease in the month November 1999, days after the policy under consideration was accepted.
- vii) Thus, the notes in the case sheets answers in Form B-1 have rendered confusion worst confounded. Unfortunately, the insurer did not go further to lay their hands on the records relating to the allegedly preexisting disease to pinpoint the exact dates of diagnosis and treatment thereof. The repudiation is based on ambiguous noting; and the insurer is not justified in totally rejecting the Claim as Section 45 is attracted on facts and they were called upon to prove fraudulent intention on the part of deceased life assured (when he purchase the policy,) which they failed to prove.
- Viii) Have regard to the facts and circumstances case, I award an ex-gratia payment of Rs. 50000/- (Rupees fifty Thousand).

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0097 / 2004 - 05
Shri Kantilal Chauhan
Vs.
Life Insurance Corporation of India

Award Dated 4.11.2004

Facts of the Case : Smt. Vasantha Bai, W/o Shri Kantilal Chauhan, housewife and doing gold business and a resident of Nellore took a Jeevan Shree life insurance policy from Ongole Branch of LIC of India, under Nellore Division. The life assured died on 03.02.2003. The cause of death was reported to be Septicemia - respiratory failure. Shri Kantilal Chauhan, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also alleged by the LIC that the life assured, about six years before she proposed for the insurance policy, suffered from **Diabetes Mellitus and Hypertension** and took treatment in hospital. She, however, did not disclose these facts in the proposal.

Instead she gave false answers. Finding the life assured to be guilty of suppression of material facts relating to her health at the time of taking the insurance policy, the claim was repudiated by LIC.

Decision :

I heard the contentions of both sides and also perused all the documents placed before me.

- i) Smt. Vasanthi Bai, W/o Shri Kantilal Chauhan took a Jeevan Shree Insurance Policy for a Sum Assured of Rs. 5,00,000 in 03/2002. The life assured died on 03.02.2003. The cause of death was reported to be "**Septicemia - respiratory failure**". The duration of the claim was just one year. Since it was a very early claim, they arranged for investigation of the claim;
- ii) LIC repudiated the claim, as the life assured, about 6 years before she proposed the insurance policy, suffered from **diabetes mellitus and hypertension** and took treatment in a hospital but suppressed these material facts while executing the proposal for insurance;
- iii) In support of their repudiation action, LIC obtained treatment particulars from SVIMS Hospital, Tirupati. According to the treatment particulars obtained by them from this hospital in their claim forms B/B1, the life assured was admitted there on 27.01.2003 vide hospital no 48234 and discharged on 29.01.2003. The final diagnosis arrived by the hospital authorities was **Septicemia c shock**;
- iv) It was reported by the hospital authorities in the claim forms that the life assured was a **known hypertensive, diabetes mellitus and hyperthyroidism and she consulted them on 16.08.1995 with history of chest discomfort since three years and was treated as an outpatient**;
- v) Just before death, the life assured on discharge, on her request, from SVIMS Hospital was admitted in St. Joseph's Hospital, Nellore on 29.01.2003 and expired in the hospital on 03.02.2003. The diagnosis arrived by them was **septicemia**. The primary cause of death was **septicemia - respiratory failure**;
- vi) The insurer did not bring on record any other evidence showing consultation by, hospitalization, or treatment of the deceased life assured after the treatment on a single day as outpatient by SVIMS long back in the year 1995. The insurer relied solely on the entry at Column 10 in Claim Form B1 filled up by SVIMS. It is to be noted in this context that in Cl.5 (b) (i) & (ii) calling for information whether the patient or anybody else reported the history of the patient, SVIMS replies "N.A.". SVIMS records do not contain this information. Consequently, as it is not established that it is the deceased life assured or her relative who gave history of DM, HTN, etc., to the SVIMS in 1995, the case of for repudiation is weakened;
- vii) Further, the life assured was medically examined by authorised medical examiner of LIC and the insured was also advised to undergo special medical tests. All these reports did not indicate any adverse features like DM, HTN or Hypertension relating to the health of the life assured; and based on these reports, the policy in question was issued;
- viii) One more point that requires consideration is the fact that the insurer already considered a claim under policy no. 840778970 taken in 03/2000. They have not spelt out the reasons that distinguish the (repudiated) policy under consideration from the policy they paid. As the so called adverse material facts relating to health related to the year 1995, they are relevant equally for both the policies;
- ix) Thus lack of evidence, their own panel doctor's medical report of the deceased life assured's health before the policy was issued, and their self contradictory stand in the two policies vitiate the decision of repudiation of the insurer. They are directed to settle the claim.

In the result, the complaint is allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0132 / 2004 - 05
Smt. Vajra J. Shetty
Vs.
Life Insurance Corporation of India

Award Dated 5.11.2004

Facts of the case : One Shri K. Jayaram Shetty, S/o late Y. Manjappa Shetty, doing business and a resident of Udupi District in Karnataka took a Jeevan Insurance Policy on 05/2000 from Kundapur Branch of LIC, under Udupi Division. But the life assured died on 01.06.2002. The cause of death was reported to be “**Cellulitis with septicemia with ARDS**”. Smt. Vajra J. Shetty, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while taking the insurance policy, in 04/2000, gave false answers to certain questions in the proposal for insurance executed by him on 27.04.2000. It was also stated by the LIC that they held indisputable proof, to show that even before he proposed the policy, he suffered from “**abdominal pain, bilateral heel pain in legs and took treatment for the same in a hospital. The life assured was also reported to be a known alcoholic since 14 years**”. He, however, did not disclose these facts while taking insurance policy. Instead, he gave false answers to the relevant questions in the proposal for insurance. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of executing the proposal for insurance, the insurer repudiated the claim.

Decision :

I heard the contentions of LIC and perused all the documents, including the written submissions of the complainant, placed before me.

- a) The life assured took a Jeevan Shree Insurance Policy in 04/2000 for a Sum Assured of Rs. 5,00,000, by executing the necessary proposal for insurance on 27.04.2000. Later, the life assured died on 01.06.2002. The duration of the claim from risk date was 1 year and 2 months. Since it was an early claim, the LIC arranged for investigation of the claim;
- b) LIC repudiated the claim alleging that the life assured, even before he proposed the policy for insurance, suffered from “**abdominal pain, bilateral heel pain in legs**” and **took treatment for the same in a hospital**. It was also alleged by the insurer that the life assured was a **known alcoholic since 14 years** but the life assured had fraudulently suppressed material facts relating to his health while taking the insurance policy in 04/2000;
- c) In support of their repudiation, the insurer also obtained discharge summary from Kasturba Hospital, Manipal. According to the discharge of the hospital, the life assured was first admitted there on **01.02.2000** vide Hospital Number 01292106. The life assured was admitted there with complaints of **abdominal pain (15 days) and bilateral heel pain in legs (one month)**. It was also reported in the discharge summary of the hospital that the life assured was a **known alcoholic since 15 years and takes a quarter of alcohol a day**. The impression of the hospital was acid peptic disease;
- d) According to the treatment particulars obtained by the insurer in their claim form B and B1 from Vinaya Hospital, Kundapur, the primary and secondary cause of death was “**Cellulitis with septicemia with ARDS**”. The life assured was admitted there on 31.05.2002 and died in the hospital itself on 01.06.2002.
- e) The implications of cellulitis are “**Cellulitis is a common bacterial infection of the skin, which can affect all ages. The predisposing factors include alcoholism**”. Alcoholism, diabetes, poor circulation as well as fungal infections on the feet allowing bacteria to enter may be factors that allow entry. There are usually fevers and chills;

- f) As Section 45 of Insurance Act, 1938 is attracted on facts in this case, mere non-disclosure of facts is not sufficient and the insurer is called upon to prove that not only the facts not disclosed are material facts but also the insured (deceased life assured) is guilty of fraudulently suppressing the material facts in order to defraud their insurer. Are these criteria satisfied in this case ?
- g) Extant medical literature speaks of alcoholism as one of the risk factors for cellulitis, which is the primary cause of death of deceased life assured according to Annexure II of Claim Form B (viz. Medical Attendant's Certificate). While the insurer relied on a note dated 01.02.2000 in the Out-patient Record of Kasturba Hospital to support their premise that the deceased life assured was alcoholic consuming one quarter of a bottle daily, the complainant - wife of deceased life assured stated that he used to consume alcohol only occasionally during hotel owners association's function etc. implying that he was not alcoholic. There is no clinching evidence to put the controversy at rest.
- h) The other undisclosed diseases of abdominal pain and bilateral heel pain do not appear to be even risk factors for cellulitis. Further, in the absence of treatment particulars, etc it is difficult to disprove whether they were ephemeral/transitory as they figure only in an Out-patient Record.
- i) Reverting to the risk factor of alcoholism the deceased life assured should be shown to be, at the time of purchasing the policy, apprehensive that his consumption of alcohol crossed the danger mark and that he might die in the immediate future, which apprehension could have induced him to commit fraud on the insurer by purchasing the policy without disclosing material facts. All that the insurer could do is to ferret out the note in the Out-patient Record of Kasturba Hospital. This is no doubt relevant but not sufficient.
- j) In the circumstances of the case and in view of the discussion above; repudiation of the full claim is not justified. Ends of justice would be adequately met if the claim is considered for Rs. 1,30,000. Accordingly, the repudiation of the claim is justified partially only and I direct the insurer to pay a sum of Rs. 1,30,000 to the complainant for the reasons mentioned above.

The complaint is, therefore, allowed partially, as mentioned above.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0230 / 2004 - 05
Smt. Shyamala
Vs.

Life Insurance Corporation of India

Award Dated 11.11.2004

Facts of the case : One Shri Penta Raja Reddy, S/o Shri Gangaram, working as operator and a resident of Metpally Mandal in Karimangar District took a Jeevan Surabhi Insurance Policy from Metpally Branch of LIC of India under Karimnagar Division. The mode of payment of premium was yearly. The life assured died on 13.07.2003. The cause of death was reported to be **Acute Pancreatitis**. Smt P. Shyamala, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal for the insurance policy, gave false answers to certain questions in the proposal from dated 28.09.2001. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he was habitual alcoholic and smoker. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Instead, he gave false answers.

Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of the complainant:-

- i) The life assured took a Jeevan Surabhi Insurance Policy in 09/2001 for a Sum Assured of Rs. 100000. The life assured was working as an operator. The mode of payment of premium was yearly. He died on 13.07.2003. The cause of death was reported to be acute pancreatitis. The duration of the claim from risk date was 1 year and 10 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had deliberately suppressed material facts relating to his health while executing the proposal for the insurance policy in 09/2001. According to the insurer, the life assured was a habitual alcoholic and smoker, prior to taking the insurance policy;
- iii) In support of their repudiation, the insurer obtained case records from Sai Vani Hospital, Hyderabad where the life assured was admitted and took treatment . According to the case records of this hospital, the life assured was admitted there on 09.06.2003 vide Regn. No. 30871 and expired in the hospital on 13.07.2003. It was reported in the hospital records that the life assured was admitted there with **C/o pain abdomen, abdominal distension, fever with chills** and vomiting since 1 week treated by local doctor. It was also reported in the hospital records that the life assured was a **known alcoholic 15-20 years and known smoker 15-20 years**. The diagnosis arrived at the hospital was **acute pancreatitis/septicemia**;
- iv) According to Mosby's Medical Dictionary 2003 (Page No.2), the implications of abdominal pain are "acute or chronic localized or diffuse pain in the abdominal cavity. Conditions producing acute abdominal pain that may require surgery include appendicitis, acute or severe and chronic diverticulitis, acute and chronic cholecystitis, cholelithiasis, **acute pancreatitis**, perforation of a peptic ulcer, various intestinal obstructions, abdominal aortic aneurysms and trauma affecting any of the abdominal organs;
- v) According to Stedman's Medical Dictionary 27th Edition (Page No. 1302), the implications of **pancreatitis** are "inflammation of the pancreas. The principal causes are: (1) Cholecystithiasis, Choledocholithiasis (2) alcoholism (3) abdominal surgery-postoperative pancreatitis (4) Endoscopy of biliary and pancreatic ducts and (5) blunt abdominal injury;
- vi) According to the same dictionary vide page No. 42, the implications of chronic alcoholism are "a pathologic condition, **affecting chiefly the nervous and gastroenteric systems**, associated with impairment in social and occupational functioning, caused by the habitual use of alcoholic beverages in toxic amounts;
- vii) There is thus no doubt that chronic alcoholism is etiologically related to pancreatitis; and the deceased life assured ought to have disclosed that he was alcoholic, if he was alcoholic. The insurer is citing only an entry in the case history to claim that the deceased life assured was alcoholic; and no other (direct) evidence is produced or relied upon;
- viii) Further, it would be pertinent to mention that the complainant belongs to a poor family without much of help from any quarter and the repudiation of the claim should naturally affect her and her family adversely. Further, the complainant and the life assured were from rural area much of knowledge and education. The life assured also paid premia for two years;
- ix) In the light of the above facts, I am of the view that it is just and proper to meet the ends of justice to direct the insurer to make a payment of Rs. 25000 (Rupees twenty five thousand only) as ex gratia by invoking Rule 18 of the Redressal of Public

Grievances Rule 1998 on humanitarian grounds and hence the insurer is directed to pay Rs. 25000 (Rupees twenty five thousand only) as ex-gratia to the complainant.

In the result, the complaint is allowed under ex-gratia for Rs. 25000 (Rupees twenty five thousand only).

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0195 / 2004 - 05
Shri K. Jayarami Reddy
Vs.
Life Insurance Corporation of India

Award Dated 26.11.2004

Facts of the case : One Shri K. Tirupalamma, W/o Shri K. Jayarami Reddy, a resident of Kothapet Village, of Kadapa District took two Life Insurance policies from Kadapa Branch of LIC under Kadapa Division. As per the proposal submitted to the office she was working as a milk vendor. The life assured was murdered on 29.01.2000. The claim under the above policies were repudiated by LIC, citing the reason that the claimant applied for the claim after three years from the date of death of the LA and the claim has become a time barred one as per the Law of Limitation Act.

Decision : I heard the contentions of both sides and also perused all the documents placed before me :

1. Smt. K. Tirupalamma, W/o Shri K. Jayarami Reddy working as a milk vendor took two Endowment policies for a Sum assured of Rs. 50,000/- each on 28.10.1998 & 27.02.1999. The Life Assured was murdered on 29.01.2002. The duration of the claim was one year three months in the first case and less than one year in the second case and both were early claim.
2. The claimant and nominee (husband of the deceased Life Assured)- was charged for harassing and murdering his wife. However, the court has acquitted him from the murder case and convicted him under Sec. 498 (A) of IPC for harassing his wife and sentenced to three years imprisonment.
3. The court of III Additional District and Session Judge, Fast Track court, Kadapa has observed that "..... the relationship between the couple became strained, that the dispute arose on account of the accused having illegal intimacy; during that period the first accused assaulted his wife and she witnessed cruelty inflicted by the first accused on his wife.... III-treatment meted out to the deceased at the hands of the first accused.... I hold that the prosecution has established that the first accused ill-treated and committed cruelty against his wife and committed the offence under Sec 498 (A) of IPC"
4. From the above findings of the court, it is very clear that the claimant and the husband of the deceased life assured was cruel to his wife - life assured - and ill treated her for which he was convicted. So it is not fair to reward him with the payment of the sum insured. But at the same time it is also not justified to deny the claim, especially, when there are little school going children of the life assured who are already suffering from the loss of their mother.
5. Repudiation of the claim for the reason that it a become a time barred one is not sound, according to me. It is doubtful whether general law of limitation can be invoked in the absence of specific condition to this effect in the policy document, and, secondly, the insurer admitted that even in the cases of so-called time-barred claims, ex-gratia payment is made. Further, the complainant's explanation for the delay, viz. he was advised to wait till the decision of the court for preferring the claim, cannot be brushed aside. Hence, I hereby direct the insurer to consider the claim afresh as per their rules and regulations and ensure that the benefit under the policy is passed on to the children of the deceased life assured.

6. In the result the complaint is closed subject to para 5 mentioned above.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0216 / 2004 - 05
Smt. Radha
Vs.
Life Insurance Corporation of India

Award Dated 30.11.2004

Facts of the case : One Shri Ramesh, S/o Shri Gantlappa, doing business and a resident of Mulabagal in Karnataka State took a Life Insurance Policy under Non-medical Scheme (without undergoing medical examination) from K.G.F. Branch of LIC of India, under Bangalore-II Division. The life assured died on 25.11.2003. The cause of death was reported to be enteric fever/malaria. Smt Radha, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 31.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **swelling on the left of the mandible since 2 years, later diagnosed as Benign cystic with intra oral discharge** and took treatment for the same. He however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and perused all the documents including the written submission of both the parties:

- i) The life assured took a Jeevan Anand Life Insurance Policy in 09/2003 for a Sum Assured of Rs. 100000 under Non-medical Scheme. The life assured was a resident of Mulabagal in Karnataka. he died on 25.11.2003. The duration of the claim from risk date was just 2 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the assured suffered from **swelling on the left side of the mandible since 2 years which was later diagnosed as Benign cystic lesion with intra oral discharge and had inoculation under GA**, prior to taking the insurance policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Shri Devaraj Urs Medical College Hospital, Tamaka, Kolar. According to the treatment particulars obtained by the insurer in the form of hospital record, the life assured consulted them on 28.04.2001 and again was admitted there vide Hospital No. 166500 with complaints of swelling on the left side of the mandible since 2 years. The insured was discharged on 15.05.2001. It was also reported by the hospital authorities in the discharge summary that "**occasional intra-oral discharge**" and the clinical diagnosis arrived by them was "**Dentigerous Cyst ?**"
- iv) The consultation and treatment referred to above was prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant question in the proposal form and thereby induced the insurer for issue of the policy;
- v) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the proposal is fraudulent in

nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy **had run for just 2 months** and the life assured **paid just only one quarterly premium**;

- vi) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- vii) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provision of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstance, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0163 / 2004 - 05
Shri T.S. Murali Mohan
Vs.

Life Insurance Corporation of India

Award Dated 30.11.2004

Facts of the case : One Smt. Sowbhagya, W/o Shri N. Srinivasaiah, a resident of Tumkur District in Karnataka took an Endowment Insurance Policy from Tumkur -II Branch of LIC of India, under Bangalore-I Division. The life assured died on 20.03.2003. The complainant reported the cause of death as heart attack. Shri T.S. Murali Mohan, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 24.09.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before she proposed for the above policy, she suffered from **diabetes and cancer** and took treatment for the same. She, however, did not disclose these facts in the proposal. Instead, she gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to her health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submission of both the parties:

- i) The life assured took an Endowment Assurance Policy in 09/2001 for a Sum Assured of Rs. 50000. The life assured was doing cultivation, taking care of lands in her village in Tumkur District in Karnataka. She died on 20.03.2003. The duration of the claim for risk date was just 1 year and 5 months and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to her health prior to taking the insurance policy. According to the insurer, the life assured suffered from diabetes and cancer prior to taking the insurance policy and took treatment in a hospital;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from M.S. Ramaiah Hospitals, Bangalore. According to the treatment particulars obtained by the insurer in the form of case summary and discharge record from this hospital, the life assured was admitted there on 10.07.2001 vide hospital no. 122014. As per the hospital

records, the insured underwent wertheim **hysterectomy for bleeding and discharge per vagina on 15.06.2001**. The diagnosis arrived by the hospital authorities was "**CA Cervix Stage-II- for concurrent CT and NIDDM**". It was reported in the hospital records that the life assured was **K/C diabetic since 6 years on treatment Tab. Netformin 500 mg** and the life assured was advised to **undergo CT on 17.07.2001**;

- iv) According to Mosby's Medical Dictionary 2003 (Page No.183), the implications of Carcinoma are "a malignant epithelia neoplasm that tends to invade surrounding tissue and to metastasize to distant regins of the body. It develops most frequently in the skin, large intestine, lungs, stomach, prostate gland, cervix or breast";
- v) The admission and treatment referred to above was just 2 months prior to taking the insurance policy. This also established the fact that the life assured was not enjoying good health at the time of executing the proposal for insurance. They were well within her knowledge and life assured, therefore, ought to enable the LIC to assess the risk in right perspective. Instead, she suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- vi) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance;
- vii)As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- viii) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to her health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0279 / 2004 - 05
Smt. Nirmala
Vs.

Life Insurance Corporation of India

Award Dated 30.11.2004

Background : Shri Manohar Veerasangappa, W/o Shri Veerasangappa, occupation: coolie and a resident of Bijapur District in Karnataka took the above New Janaraksha life insurance policy under Non-medical Scheme (without undergoing medical examination) from Basavan Bagewadi Branch of LIC under Belgaum Division. The life assured died due to **heart attack** on 21.07.2003. The insured, while proposing his life for insurance, understated his age by 7 years and thereby induced the insurer for issue of the policy. According to the insurer, had the life asured disclosed his correct age of 41 years at the time of taking the insurance

policy, they would not have issued the insurance policy in question without medical examination, as the life assured **was not eligible** for the New Janaraksha Policy under Non-medical Scheme. In view of suppression of material facts relating to his age by the life assured, LIC repudiated the claim under the policy.

Decision : I have carefully perused the papers before placed before me including the written submissions of the complaint and heard the arguments presented by the insurer.

- i) The life assured took a New Janaraksha Insurance policy for a Sum assured of Rs. 25000 in 01/2003 under Non-medical General scheme. At the time of taking the insurance policy, the insured furnished / declared his age as 34 years; and based on his statement, the policy under dispute was issued. He died on 21.07.2003. The duration of the claim was just 5 months. Since it was a very early claim, the insurer arranged for investigation into the bonafides if the claim;
- ii) The investigations revealed that the age furnished by the life assured was not correct and that there was gross understatement of age by 7 years by the insured. As such the life assured **was not eligible for insurance for New Janaraksha Policy** and hence the claim was repudiated by the insurer;
- iii) In support of their repudiation action, the insurer obtained and submitted copy of the School Certificate issued by Govt. Boys' Primary School, B.B. Wadi;
- iv) According to the School Certificate mentioned above, the date of birth of the life assured was recorded as **20.06.1962**. Based on this, the age of the life assured as on the date of taking the insurance policy was 41 years. But he had disclosed his age as 34 years thereby there was **gross understatement of age by 7 years** as on the date of taking the policy;
- v) According to the underwriting norms of LIC, had the life assured disclosed his correct age of 41 years at the time of taking the insurance policy, LIC would not have issued the New Janaraksha Insurance Policy under **Non-medical Scheme as the life assured was not eligible for the same**;
- vi) It would be pertinent to mention here that proof of age in connection with a life insurance policy was important in two respects (a) It is a condition precedent to the liability of the insurer and (b) Secondly, proof of age was very material for the assessment of the risk and hence the life assured should state his correct age. The rate of premium payable depends upon the age at the date of the risk. The insurer, therefore, requires proof of age to be furnished by the life assured at the time of taking the insurance policy;
- vii) The complainant also did not dispute the understatement of age submitting concrete evidence and prove that there was no understatement of age by the insured. If the insurer was made aware of the real date of birth of the insured, the insurer would not have accepted the proposal for the New Janaraksha Policy and that too, under **Non-medical Scheme**. The document submitted by the insurer clinchingly proves that the life assured dishonestly concealed the real age/date of birth from the insurer to get the insurance policy viz. New Janaraksha under Non-medical Scheme and as such, the contract of insurance between the insurer and the insured is null and void;
- viii) It is also a settled law that the contract of insurance is based on good faith. It is for the life assured to give the correct information relating to his age at the time of executing the proposal for insurance, which he did not disclose at that time. This ground of incorrect information and false statements regarding age of the insured make the insurance contract null and void. The insurer is, therefore, well within its right to repudiate the claim made by the complainant;

- ix) Therefore, I have to hold, for the reasons as aforesaid and also in the light of the evidences available on record as referred to above, the repudiation of the claim by the insurer is legal, proper and correct and does not call for any interference at my hands.
The complaint is, therefore dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0154.1004-05
Smt. Bhagya
Vs.
Life Insurance Corporation of India

Award Dated 6.12.2004

Facts of the case : One Shri Y. K. Shivaswamy, S/o Shri Y.J. Kempegowda, working as teacher and a resident of Hassan District in Karnataka took a Bima Kiran Insurance Policy in 08/2000 under Non-medical (Special) Scheme from Hassan Branch of LIC of India under Mysore Division. The mode of payment of premium was half-yearly. The life assured died on 21.01.2002. The cause of death was reported to be **heart attack**. Smt. Bhagya, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal for the insurance policy, gave false answers to certain questions in the proposal form dated 03.08.2000. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he suffered from **Rheumatic Heart Disease, Severe Aortic Regurgitation and underwent Aortic Valve Replacement** in a hospital. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Instead, he gave false answers. Finding the life assured to be guilty of fraudulent suppression of material facts, relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of the insurer and also perused all the documents placed before me including the written submissions of the complainant :

- i) The life assured took a Bima Kiran Insurance Policy in 08/2000 for a Sum Assured of Rs. 200000 under non-medical (Special) Scheme. The life assured was working as a teacher. The mode of payment of premium was half-yearly. He died on 21.01.2002. The cause of death was reported to be **heart attack**. The duration of the claim from risk date was 1 year and 5 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had deliberately suppressed material facts relating to his health while executing the proposal for the the insurance policy in 08/2000. According to the insurer, the life assured suffered from **Rheumatic Heart Disease, Severe Aortic Regurgitation and underwent Aortic Valve Replacement**, prior to taking the insurance policy;
- iii) In support of their repudiation, the insurer obtained information from Jayadeva Institute of Cardiology, Bangalore. According to the admission/Discharge Certificate date 10.03.2003 issued by the hospital, the life assured was admitted there on **15.03.1996 (I.No. 53231) and discharged on 05.04.1996**. It was reported in the certificate by the hospital authorities that life assured was suffering from **Rheumatic Heart Disease, Severe Aortic Regurgitation and underwent Aortic Valve Replacement**. This admission and the treatment thereto was **prior to taking the insurance policy**;
- iv) In support of repudiation, the insurer also obtained information from the employer of the life assured. According to the certificate date 08.05.2002 issued by the Headmaster, Government High School, Chikkadalur, the insured **availed leave on medical grounds during the period 15.03.1996 to 05.04.1996 and underwent open heart surgery**;
- v) The effectiveness of aortic valve replacement surgery depends on several factors. Further, replacement of aortic value does not **"cure"** the condition for the following

reasons : (i) May require medication after valve surgery, particularly when artificial valve is received, medication is required as long as one has such valve (ii) Current placement valves do not last forever; one may need to replace the valve in the future (iii) Artificial valves do not have openings as wide as normal valve and may not effectively relieve pressure overload; and (iv) There is also a chance that the valve will malfunction and hence one will need to periodically monitor how well the valve is working;

- vi) Further, the policy was taken by the life assured under Non-medical Special Scheme, without undergoing medical examination by authorised medical examiner of LIC and hence more responsibility was cast on the insured to disclose all material facts to the insurer. But the life assured violated this principle and induced the insurer for issue of the policy by suppressing vital material facts;
- vii) The insured had not disclosed the factum of his illness RHD-Severe aortic regurgitation and underwent aortic valve replacement to the insurer and that the disease had also a **nexus with the ultimate cause of death** of the life assured;
- viii) Therefore, I have to hold, for the reasons aforesaid and also in the light of the medical evidences and medical implications of the material fact suppressed as referred to above, the repudiation of the claim by the insurer is sustainable on law as well as facts and does not warrant any interference at my hands;
- ix) The life assured was working as a teacher and aged just 37 years at death. The insured and the complainant hail from an interior rural place in Karnataka. The insured paid 3 half-yearly premium amounting to Rs. 4935/-. The reasons also would show that the complainant belongs to a poor family without much of help from any quarter and the death of the insured rendered them impossible to adjust themselves to their livelihood. Hence, I am of the view that it is just and proper to meet the ends of justice to direct the insurer to make a payment of Rs. 5000/- as Ex-gratia by invoking Rule 18 of the Redressal of Public Grievance Rule 1998 on humanitarian grounds and hence the insurer is directed to pay Rs. 5000 as Ex-gratia to the complainant.

In the result, the complaint is dismissed but the insurer is directed to pay an amount of Rs. 5000/- as Ex-gratia to the complainant in view of Rule 18 of the Redressal of Public Grievances Rule 1998.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0224.2004 - 05
Smt. Jayamma
Vs.
Life Insurance Corporation of India

Award Dated 6.12.2004

Facts of the case : One Shri Manjappa, S/o late Shri Puttaiah, working as lineman and a resident of Bhadravathy in Karnataka, took a Life Insurance Policy under non-medical Scheme from City Branch-II Shimoga of LIC of India, under Udupi Division. The life assured died on 23.06.2002. The cause of death was reported to be suicide (hanging). Smt. Jayamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 18.01.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **Acid Peptic Disease, Chronic Pancreatitis and pain in abdomen** and took treatment for the same. He, however, did not disclose these facts in the proposal. Instead, he gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty to deliberate

suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of the insurer and also perused all the documents of both parties including the written submissions of the complainant :

- i) The life assured took an Endowment Assured Policy in 03/2001 for a Sum Assured of Rs. 50000 under Non medical (Special) Scheme, without undergoing medical examination by authorized medical examiner of LIC. The life assured was working as lineman in KPTCL at Bhadravathy in Karnataka. He died on 23.06.2002. The duration of the claim from risk date was just 1 year and 3 months and the hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from **acid peptic disease, chronic Pancreatitis and pain in abdomen** and took treatment from a doctor, **prior to taking the insurance policy**;
- iii) In support of their repudiation action, the insurer obtained a statement from Dr. H.D. Aswathanarayana of Bhadravathy. According to the statement obtained by the insurer in their claim form no. 5152, the insured consulted the doctor for **acid peptic disease and chronic Pancreatitis**. The doctor reported the duration as **two years**. This is, therefore prior to taking the insurance policy;
- iv) Since the death was due to suicide, the insurer also obtained police reports viz. First information report (FIR), post mortem report (PMR) and police inquest report (PIR). The post mortem report opined the cause of death due to **asphyxia as a result of hanging**. According to the police inquest report, the life assured was suffering from **pain in abdomen since two years** and the insured was not able to bear the pain and committed suicide by hanging;
- v) The complainant, in the claim form A submitted by her, reported the cause of death as stomach pain. According to the complainant (wife of the insured) and Shri Basavaraj, brother of the life assured reported that the life assured was suffering from stomach pain and could not tolerate the same and hence committed suicide by hanging himself;
- vi) The consultation and treatment referred to above was prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- vii) The policy under dispute was issued by the insurer under Non-medical Scheme, without undergoing medical examination by authorized medical examiner of LIC and there is, therefore, more responsibility cast on the insured to disclose all material facts to the insurer.
- viii) On the contrary, all that the insurer got is a statement from Dr. H.N. Aswathanarayana, who did not supply even the details of treatment. Further, he speaks of only conservative treatment, indicating that the ailments of the deceased life assured did not require radical or serious surgery or treatment. The deceased life assured committed suicide. The post-mortem report does not mention any abnormality in the stomach or abdomen and cites asphyxia as cause of death.
- ix) Thus it cannot be said that the nexus between the pre-existing diseases and the cause of death viz suicide is established beyond reasonable doubt. In my view, therefore, total repudiation of claim is not justified. Ends of justice are met if half of the sum assured, i.e. Rs. 25000/- be paid. Taking into account the totality of the circumstance of the case on hand and in view of the above reasons, I award payment of Rs. 25000/- (Rupees twenty five thousand only).

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0253 / 2004 - 05
Smt. Kasturibai N. Patil
Vs.
Life Insurance Corporation of India

Award Dated 6.12.2004

Facts of the case : One Shri Ningangouda G. Patil, S/o Shri Gurudeva Gouda, working in high school and resident of Bagalkot District in Karnataka took life insurance policy from Badami Branch of LIC, under Belgaum Division. The mode of payment of premium was half-yearly. The policy was in a lapsed condition due to non-payment of premium due from 01/2001. Subsequently, the policy was revived by the life assured on 10.12.2002 by paying the arrears of premiums and also submitted declaration of good health form. But the life assured died on 10.06.2003. The complainant reported the cause of death as **heart attack**. Smt. Kasturibai N. Patil, the complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving his lapsed policy, gave false answers to certain questions in the declaration of good health form, submitted by him at the time of reviving his lapsed policy. It was also stated by the LIC that they held indisputable proof, to show that even before he revived his lapsed policy, he was suffering from **AIDS** and took treatment for the same. He, however did not disclose these facts in the declaration of good health form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of reviving his lapsed policy, the insurer repudiated the claim by setting aside the revival.

Decision : I heard the contentions of both sides and perused all the documents, including the written submissions of the complainant, placed before me.

- i) The life assured took a Money Back Insurance policy in 01/1998 for a Sum Assured of Rs. 100000. The mode of payment of premium was half-yearly. The life assured paid premiums upto 07/2000. The policy lapsed due to non-payment of premiums due from 01/2001. The life assured got the policy revived on 10.12.2002, by paying the entire arrears of premia with interest and also submitted declaration of Good Health Form, duly executed by him. Later, the life assured died on 10.06.2003. The duration of the claim from revival date was just 6 months. As such the insurer arranged for investigation into the bonafides of the claim;
- ii) LIC repudiated the claim by setting aside the revival effected on 10.12.2002, as the life assured had fraudulently suppressed material facts relating to his diagnosis for HIV + ve at Karudagimath Nursing Home, Badami;
- iii) In support of their repudiation action, they obtained a certificate dated 31.07.2003 addressed to LIC, Badami wherein the nursing home authorities reported that the life assured consulted them on 28.04.2002 and had pathological tests which confirmed presence of Hiv + ve. Barring this, the insurer did not make any attempt to obtain further evidence to strengthen their repudiation action. The insurer also ought to have obtained the details of the tests and their findings. This was also not done by the insurer;
- iv) Having obtained a clue, the insurer ought to have probed further at the work place of the life assured, which would have revealed the state of health of the life assured. But curiously enough not even a feeble attempt was made by the insurer to collect evidence relating to the health aspect of the insured prior to revival of the policy.
- v) The insurer obtained copy of the admission register of the nursing home. According to the admission register, the life assured consulted them on 28.04.2002 of pathological tests and was diagnosed as HIV +ve;
- vi) According to the complainant, the life assured was attending to his duties regularly and did not avail any leave on medical grounds. Moreover, the evidence obtained by the insurer-contained merely the name of the person. It was not supported by other

particulars like father's name and address to stand upto legal scrutiny. Thus, the evidence relied upon by the insurer is too flimsy to suffice for repudiation of the claim of the complainant. The repudiation action of the insurer should be backed by an amount of credible, reliable and acceptable evidence, which is not done in the present case;

vii) In this connection, it is also profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies. "In course of time, the Corporation has grown in size and at present, it is one of the largest public sector financial undertakings. The public in general and the crores of policyholders in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and repudiation depend on its prompt and efficient service. Therefore, the approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be not of extreme care and caution. It should not be dealt with, in a mechanical and routine manner";

viii) In the present case, the insurer had not proved its case to the hilt by cogent and clear evidence. It is only a futile attempt on the part of the insurer to cash in on documents which fail to substantiate the allegations to the insurer;

ix) Having regard to the facts and circumstances of the case as discussed above and also the manner in which the claim was made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above policy;

x) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified.

I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

In the result, the complaint is allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0289 / 2004 - 05
Shri B. Shiva Prasad
Vs.
Life Insurance Corporation of India

Award Dated 8.12.2004

Facts of the case : One Shri G. V. Basavaraju, S/o Shri Veranna, working as Accounts Assistant and a resident of Kunigal Taluk in Karnataka took two Life Insurance Policies from Kunigal and Tumkur - II Branch of LIC of India, under Bangalore Division. The life assured died on 27.07.2003. The cause of death was reported to be policy, heart attack. Shri B. Shova Prasad, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2004/29.04.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policies, he was reported to be a known case of **vertibro basilar insufficiency, had cardiac problems since 13.04.2002** and took treatment for the same. The insurer also alleged that the life assured availed **leave on sick grounds for 29 days during 24.03.2002 to 21.04.2002**. He, however, did not disclose these facts in the proposals. Instead, he gave false answers to the relevant questions in the proposal forms. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policies, LIC repudiated the claims.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties:

- i) The life assured took an Endowment Assurance Policy in 06/2002 for a Sum Assured of Rs. 25000. He also took a Jeevan Mitra Triple Cover Endowment Assurance Policy in 03/2003 for a Sum Assured of Rs. 50000. The life assured was working as Accounts Assistant and was a resident of Kunigal in Karnataka. He died on 27.07.2003. The duration of the 1st claim for risk date was just 1 year and that of the 2nd claim was just 4 months. Since they were early claims, the insurer arranged for investigation into the bonafides of the claims;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policies. According to the insurer, the life assured was reported to be **a known case of vertibro basilar insufficiency, had cardiac problems since 13.04.2002** and he took treatment for the same. It was also alleged by the insurer that the life assured **availed leave on sick ground for 29 days, prior to taking the insurance policy;**
- iii) In support of their repudiation action, the insurer obtained treatment particulars from NIMHANS Hospital, Bangalore. According to this hospital, the insured consulted them on **12.04.2002** for **Vertigo-Basilar Insufficiency** and was advised to undergo some special medical tests at Jayadeva Institute of Cardiology. Accordingly the life assured consulted Jayadeva Institute of Cardiology on **13.04.2002** and underwent special medical test. As per the record of this hospital, the life assured was reported to be **"k/c/o/ of Vertigo Basilar Insufficiency -Referred from NIMHANS for cardiac evaluation-C/o of chest pain two years"**. These consultations were all prior to executing the proposals for insurance policies;
- iv) According to the information obtained by the insurer from the employer of the life assured, the life assured availed leave on medical grounds during the period 24.03.2002 to 21.04.2002 (29 days). The insurer also obtained and submitted the medical certificate issued by Dr. B. Yallappa wherein the doctor reported that the life assured was under his treatment during 26.03.2002 to 21.04.2002 for ? CVA ? IHD;
- v) The complainant reported the cause of death as heart attack. The insured had not disclosed the factum of his illness Vertigo-Basilar Insufficiency and cardiac Problems to the insurer and the diseases had also a nexus with the ultimate cause of death of the life assured. Further, the complainant also did not dispute the fact of the consultations at different hospitals;
- vi) The consultation and treatment referred to above was just 2 months and 11 months prior to taking the insurance policies. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal forms and thereby induced the insurer for the issue of the policies;
- vii) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim were repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policies had run for just 1 year and 4 months respectively only and the life assured paid premiums accordingly;
- viii) As the contract of insurance being contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a

solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;

- ix) Therefore, I have to hold for the reasons as aforesaid the repudiation of the claim by the insurer invoking the provision of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0217 / 2004 - 05
Smt. Prameela Devi
Vs.
Life Insurance Corporation of India

Award Dated 9.12.2004

Facts of the case : One Shri K. Muralidhara, S/o Shri K. Lakshminarayana Rao, working as FDAA in KUWS at Mysore in Karnataka took an Endowment Assurance Policy from City Branch - II of LIC of India, under Mysore Division. The policy was taken under salary savings scheme. The life assured died on 04.07.2002. The cause of death was reported to be **endotoxic shock**. Smt. Prameela Devi, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal, for the insurance policy, gave false answers to certain questions in the proposal form dated 09.01.2001. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he suffered from adverse seizures (general) and took treatment in NIMHANS Hospital, Bangalore. It was also alleged by the insurer that the life assured availed leave on medical grounds during the period 19.12.2000 to 02.01.2001. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Instead, he gave false answers. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both side and also perused all the document including the written submissions of the complainant :

- i) The life assured took an endowment assurance policy in 01/2001 for a Sum Assured of Rs. 100000. The life assured was working as first Division Assistant KUWS at Mysore in Karnataka. The mode of payment of premium was salary savings scheme and accordingly, the premium was recovered from the salary of the insured and remitted to LIC. The life assured died on 04/07/2002. The cause of death was reported to be endotoxic shock. The duration of the claim from risk date was 1 year and 6 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the life assured had deliberately suppressed material facts relating to his health while executing the insurance policy in 01/2001. According to the insurer, the life assured suffered from adverse seizures (general) and took treatment for the same. It was also alleged by the insurer that the life assured availed leave on medical grounds during the period 19.12.2000 to 02.01.2001, prior to taking the insurance policy;
- iii) Section 45 of the Insurance Act 1938 was applicable under the claim as the insurer repudiated the claim after expiry of two years from the date of commencement of the policy. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the

Insurance Act 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other documents leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to disclose. The said provision lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose:

- iv) In support of their repudiation, the evidence obtained and submitted was treatment particulars from NIMHANS Hospital, Bangalore. According to the hospital records of this hospital, the life assured was reported to be a patient of seizure disorder since the age of 19 years and was on treatment. The insurer also obtained information to the effect that the life assured availed medical reimbursement from his employer for his treatments for seizures:
- v) The life assured finally died in Roman Medical Services, Mysore on 04.07.2002. The primary cause of death was reported as "Endotoxic shock" and the secondary cause of death was reported as "Paralytic Ileus peritonitis";
- vi) As regards the suppression of material facts, I find that the insurer had thoroughly investigated the matter and proved that the life assured did suppress certain material facts. In the proposal for insurance given by the insured on 09.01.2001 he did not divulge the fact that he was on treatment for seizures, availing leave on medical grounds and got medical reimbursements from his employer. In fact, according to the hospital records, the life assured was reported to be on treatment for seizures since he was 19 years old. This material would have been adequate to deny the claim or to cancel it before lapse of two years. Once the repudiation is effected after two years a policy cannot be called in question merely on grounds of misstatement alone. The insurer must establish that such statement was **fraudulently** made by the life assured.
- vii) To establish fraud, the LIC would have to prove in this case that it was their normal practice not to give insurance policies in favour of people suffering from seizures and the life assured by not divulging the fact obtained a policy thereby gaining an undue advantage for himself vis-a-vis other policyholders. Since it is not the policy of LIC to deny insurance policies to people suffering from seizures, suppression of facts relating to seizures at the time of inception of the policy by the life assured in the proposal form does not amount to fraud. Moreover, the life assured was attending to his official duties regularly. Also, the life assured was examined by authorised medical examiner of LIC and on the basis of his report only; the policy in question was issued. Further, the cause of death was endotoxic shock, which has no nexus to the material fact suppressed. If Seizures had a real nexus with the death of the life assured, the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before the Insurance Ombudsman to drive home its contentions;
- viii) The insurer repudiated the claim for the policy under dispute alleging that the insured was suffering from adverse seizures since 17 years prior to taking this policy. But for reasons well known to them, they have already considered a claim under Policy No. 610213193. Having considered this claim with the same history of seizures, it is not fair and justified on the part of the insurer to reject the claim under the present policy;

- ix) Having regard to the facts and circumstances as discussed above, I am of the opinion that since the repudiation was done after two years, the decision of the insurer in repudiating the claim under the policy is not justified as they could not fulfill all the three ingredients required under Sec. 45 the Insurance Act 1938.
- x) Hence the decision of repudiation of the claim by the insurer is thus interfered with by me and the complaint is allowed accordingly and the insurer is directed to settle the claim for Sum Assured under the policy.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0318 / 2004 - 05
Smt. S. Kanakamma
Vs.

Life Insurance Corporation of India

Award Dated 14.12.2004

Facts of the case : One Shri Sangyam Rajaiah, S/o Shri Bhumaiah, working as watchman and resident of Kothagudem in Khammam District took a Life Insurance Policy from Kothagudem Branch of LIC of India, under Warangal Division. The life assured died on 06.07.2003. The cause of death was reported to be **heart attack**. Smt. Kanakamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. LIC repudiated her claim on 25.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **Infective Hepatitis** and took treatment for the same. It was also alleged by the LIC that the life assured availed leave on medical grounds during the period 21.07.2001 to 22.08.2001. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of the documents including the written submission of both the parties :

- i) The life assured took an Endowment Assurance Policy in 02/2003 for a Sum Assured of Rs. 20000. The life assured was working as watchman and was a resident of Kothagudem in Khammam District. He died on 06.07.2003. The duration of the claim from risk date was just 4 months and hence arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from **infective hepatitis** and took treatment from a doctor at Kothagudem, prior to taking the Insurance policy. It was also alleged by the insurer that the life assured availed leave on medical grounds during the period 21.07.2001 to 22.08.2001;
- iii) In support of their repudiation action, the insurer obtained copies of medical prescriptions issued by Dr. M. Ankanna Chowdhary of Kothagudem. According to the medical prescription dated 21.07.2001, the diagnosis arrived was "infective hepatitis" and the insurer also obtained information from the employer of the life assured in their claim form E wherein the employer reported that the life assured availed leave on medical grounds during the period 21.07.2001 to 22.08.2001;
- iv) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of executing the proposal for insurance, the insurer would have considered in insurance after 6 months from the date of cure of the disease. In other words, the waiting period for consideration of insurance for a person affected by jaundice was six months. In the instant case, the insured was cured of hepatitis on 22.08.2001. The waiting period of six months already expired by 2/2002. The proposal

for insurance was executed by the life assured only in 02/2003, after a lapse of 1 ½ years from the date of his recovery from hepatitis. Thereafter, he was attending to his official duties regularly and also did not avail any leave on medical grounds;

- v) Further, the cause of death was sudden heart attack, which has no nexus to the material fact allegedly suppressed;
- vi) Also the life assured was examined by authorised medical examiner of LIC and on the basis of his report only, the policy in question was issued and no adverse features were reported by the medical examiner;
- vii) In this connection it is also profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies. "In course of time, the Corporation has grown in sizes and at present, it is one the largest Public Sector financial undertakings. The public in general and the crores of policyholders in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and repudiation depend on its prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and reputation depend on its prompt and efficient service. Therefore, the approach of the Corporation in the extreme and caution. It should not be dealt with in a mechanical and routine manner";
- viii) Even if Sec. 45 is not applicable, the insurer must prove its case to the hilt by cogent and clear evidence, which he failed to substantiate his repudiation action;
- ix) In the circumstances of the case as discussed above and also the manner in which the claim was made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities, I am of the view that it is only proper to direct the insurer to settle the claim under the above policy;
- x) Therefore, for reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified.

I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

In the result, the complaint is allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0228 / 2004 - 05
Shri. Vaddi David Raju
Vs.
Life Insurance Corporation of India

Award Dated 14.12.2004

Facts of the case : One Smt. Vaddi Sarojini, W/o Shri Vaddi David Raju, doing milk business and a resident of East Godavari District took a Money Back Policy from Razole Branch of LIC, under Rajahmundry Division. The mode of payment of premium was half yearly. The policy lapsed due to non payment of premium due 02/2000 in time. The life assured got the policy revived on 05.10.2001 by paying the arrears of premium and also Submitted declaration of good health form, as advised by LIC. Subsequently, the life assured died on 21.06.2003. The cause of death was reported to be renal-failure. Sri V. David Raju, the complainant and nominee under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India citing the reasons, that the life assured, while submitting the proposal for insurance in 02/1997 and reviving the lapsed policy on 05.10.2001, gave false answers to certain questions in the proposal and declaration of good health form submitted by her. It was also alleged by the LIC that they held indisputable proof, to show that there was gross understatement of age by the life assured

by 13 years at the time of taking the policy as also at the time of revival of the policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to her age at the time of taking the insurance policy and at the time of revival of the policy, the insurer repudiated the claim.

Decision : I heard the contention of both sides and perused all the documents, including the written submissions of the complainant, placed before me.

- a) The life assured late Smt. Vaddi Sarojini, doing milk business and a resident of East Godavari District took a life insurance policy in 02/1997 for a Sum Assured of Rs. 50000. The mode of payment of premium was half - yearly. The life assured did not pay the premium due 02/2000 in time. As such, the policy lapsed. Later, the life assured got the policy revived on 05.10.2001 by paying the arrears of premium and also submitted health requirements, as advised by the insurer. The life assured died on 21.06.2003. The cause of death was reported as **renal failure**. Since the duration of the claim from revival was 1 year and 8 months, the LIC arranged for investigation of the claim;
- b) LIC repudiated the claim under the policy on 24.01.2004, as the life assured had fraudulently suppressed material facts relating to her age, prior to taking the insurance policy and revival of the policy;
- c) Before discussing the facts and circumstance and the documentary evidence available on file, it is useful to know the salient features of age proof. Proof of age in connection with a life insurance policy is important in two respects. (1) It is a condition precedent to the liability of the insurer, for, the policy says "the Corporation will pay the sum assured, upon proof of the correctness of the life assured stated in the proposal. If that is not done to the satisfaction of the insurers, their liability does not arise" and (2) Proof of age is very essential and material for the assessment of the risk and hence the proposer should state his correct age. The rate of premium payable depends upon the age on the date of risk. The insurer may require proof of age to be furnished at the time of the proposal itself or at any time after issue of the policy;
- d) In the instant case, the insurer repudiated the claim, as there was gross understatement of age by the life assured by 13 years. In support of their repudiation action, the insurer obtained copy of the voters' list for the year 2004. According to the voters' list Item No. 559), the age of the life assured was recorded as 55 years. This voters list was prepared by government authorities while discharging their duties;
- e) In support of repudiation action, the insurer also obtained Secondary School Certificate No. 195345 issued by Board of Secondary Education, Andhra Pradesh (Lutheran High School, Sakhinetipalli, E.G. Dt). According to this certificate, the date of birth of Shri Vaddi Solomon Raju son of the life assured was recorded as 10.06.1963;
- f) The life assured declared her year of birth in the proposal as 1962. Based on her declaration, her age as on 02/1997 (date of proposal) was taken as 35 years by the insurer. But based on the School Certificate of the son of the life assured, it is established beyond doubt that the age declared as 35 years by the insured was not correct;
- g) According to the underwriting norms of LIC, had the life assured disclosed her correct age at the time of taking the policy, they would not have considered the insured for insurance as she was uninsurable;
- h) Both the above evidences submitted by the insurer when chronologically arranged, would clearly establish the fact that the life assured did not disclose her correct age and that there was gross understatement of age;
- i) Although the complainant disputed the contentions of the insurer, he had not produced authenticated and reliable documents to counteract the indubitable proof of age placed by the insurer. He has not even produced any documentary evidence like birth certificate or school certificate to prove that there was no understatement of age and that her age was 35 years as on the date of taking the insurance policy. Hence, the insurer was well within its right to repudiate the claim made by the complainant. If the

insurer was made aware of the real date of birth of the insured, the insurer would not have accepted the proposal for insurance;

- j) In view of the above facts and the documents produced by the insurer, which clinchingly proved the fact that there was gross understatement of age of the life assured, the repudiation of the claim made by the insurer is legal and correct and does not call for any interference at my hands.

In the result, the above complaint fails and accordingly the complaint is dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0275 / 2004 - 05
Shri. T. Sunkanna
Vs.

Life Insurance Corporation of India

Award Dated 15.12.2004

Facts of the case : One Smt. T. Yellamma alias Padmavathy, W/o Shri Sunkanna, occupation being tailor and a resident of Kurnool District took a Janraksha Insurance Policy under Non-medical Scheme in 09/2001 from Atmakur (Kurnool) Branch of LIC of India, under Cuddapah Division. The mode of payment of premium was half-yearly. The life assured paid only one half-yearly premium. The policy lapsed due to non-payment of premium due 03/2002. The life assured got the policy revived by the paying the arrears of premiums and also submitted declaration of good health form, as advised by the insurer. The life assured died in 27.09.2003. The cause of death was reported to be **Mitral stenosis regurgitation Post delivery anemia PPH with shock**. Shri T. Sunkanna, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving her policy, gave false answers to certain question in the declaration of good health form dated 28.09.2002. It was also alleged by the LIC that they held indisputable proof, to show that even before she executed the declaration of good health form for revival of her lapsed policy, she suffered from **mitral stenosis and mitral regurgitation** and took treatment in a hospital. She, however, did not disclose these facts in the declaration of good health form submitted by her at the time of reviving the insurance policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to her health at the time of revival of the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides also perused all the documents including the written submission of the complainant;

- i) The life assured took a New Janaraksha Insurance Policy under Non-medical Scheme without undergoing medical examination in 09/2001 for a Sum Assured of RS. 25000. The mode of payment of premium was half-yearly. The life assured paid only one instalment premium. The policy lapsed due to non-payment of premiums due from 03/2002 in time. The life assured got her policy revived under Non-medical scheme by paying the arrears of premiums and submitted declaration of good health form. She died on 27.09.2003. The cause of death was reported as **mitral stenosis mitral regurgitation post delivery anemia shock**. The duration of the claim from revival was just one year only. Since it was a very early claim, the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had deliberately suppressed material facts relating to her health while executing the declaration of good health form at the time of revival of the policy in 10/2001. According to the insurer, the life assured suffered from mitral stenosis mitral regurgitation and took treatment for the same, prior to revival on the insurance policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Gowri Gopal Hospital, Kurnool. According to the treatment particulars obtained by them

from this hospital in the form of discharge record and claim forms B/B1, the life assured was admitted there on 27.09.2003 vide Admission No. 2222 with complaints of breathlessness and cough post delivery and died in the hospitals itself while undergoing treatment on 27.09.2003. The primary cause of death was reported as **Mitral Stenosis Mitral Regurgitation Post delivery Anemia PPH with shock congestive heart failure** and the secondary cause of death was reported as **Post delivery with severe anemia shock;**

- iv) The Hospital authorities executed an affidavit in claim form no. 5152 wherein they reported the duration of illness as 5 years;
- v) According to Mosby's Medical Dictionary 2003 (page No.724) the implications of mitral valve stenosis are "an obstructive lesion in the mitral valve of the heart caused by adhesions on the leaflets of the valve of the heart usually the result of recurrent episodes of rheumatic endocarditis. Hypertrophy of the left atrium develops and may be followed by right-sided heart failure and pulmonary edema (cor pulmonale). Reduced cardiac output characteristically produces fatigue, dyspnea, orthopnea and cyanosis. Surgical correction of the defective valve may be necessary. The valve may be freed of the adhesions in a commissurotomy or it may be replaced by a prosthetic valve;
- vi) According to the same dictionary (Page No.975), the implications of regurgitation are "the return of swallowed food into the mouth and (ii) the backward flow of blood through a defective heart valve named for the affected valve, as in aortic regurgitation;
- vii) On a perusal of the hospital records, it is established beyond doubt that the diagnosis for mitral stenosis and mitral regurgitation was well before revival of the insurance policy. In the circumstance of this case, therefore, the fraudulent suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of revival of the insurance policy from the insurer and she had conveniently suppressed the material facts of her ill health intentionally to defraud the insurer;
- viii) The life assured after knowing fully well that she was suffering from mitral stenosis mitral regurgitation and that something untoward might happen and revived the policy by suppressing the material facts relating to her illness;
- ix) It is a settled law that the contract of insurance is based on good faith. The information as to the insured having suffered from mitral stenosis mitral regurgitation and congestive heart failure confirmed by the hospital at Gowri Gopal Hospital, Kurnool before the revival of the policy was established beyond doubt on the basis of the medical evidence submitted by the insurer. It is for the insured to give correct information about her health while executing the declaration of good health form for revival of the policy, which she did not disclose at that time. This ground of incorrect information and false statement regarding her health make the revival of the policy as null and void;
- x) Therefore, I have to hold for the reasons as aforesaid and also in the light of medical evidences available on record as referred to above, the repudiation of the claim by setting aside the revival, by the insurer on the ground that the insured had fraudulently suppressed material facts relating to her health at the time of revival of the insurance policy has to be upheld on law as well as on facts and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0294 / 2004 - 05
Smt. P. Jayalakshmi
Vs.

Life Insurance Corporation of India

Award Dated 16.12.2004

Facts of the case : Shri P. Surya Rao, S/o Late P. Gani Raju, working as attender in Shri Ramabhadra College and a resident of Hyderabad took the above insurance policies from City Branch XV of LIC under Hyderabad Division. The life assured died on 16.03.2001. The cause of death was reported to be pyrexia. Smt. P.Jayalakshmi, who is the nominee and complainant under the policies, lodged a claim with the LIC. But the claims were repudiated by LIC of India, citing the reason, that the life assured, while executing the proposals for the insurance policies, gave false answers to certain questions in the proposal forms on 03.05.1998 and 30.07.1998 respectively. It was also alleged by the insurer that they held indisputable proof, to show that even before he executed the proposals for the insurance policies, he suffered from diabetes and incisional hernia, operated for right renal mass in February 1996 and again operated for the same problem on 13.06.1997. The insurer also alleged that the life assured availed leave on medical grounds for 72 days during the period 26.06.1997 to 05.09.1997. He, however, did not disclose these material facts in the proposal forms submitted by him at the time of taking the insurance policies. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policies, LIC repudiated the claims.

Decision : I have carefully perused all the documents placed before me and also heard the contentions submitted by both the parties.

- i) The life assured late P. Surya Rao, working as attender in Shri Rama Bhadra Junior College and a resident of Hyderabad took two insurance policies viz., Pol. No. 641679682 in 05/1998 for a Sum Assured of Rs. 30,000 and 640976564 in 11/1998 for a Sum Assured of Rs. 1,00,000 respectively. Later, he died on 16.03.2001. The cause of death was reported to be pyrexia. The duration of the claims was less than two years. Hence, the insurer arranged for investigation into the bonafides of the claims;
- ii) The insurer repudiated the claims on the ground that the life assured had fraudulently suppressed material facts relating to his health while executing the necessary proposals for the insurance policies in 05/1998 and 11/1998. According to the insurer, the life assured suffered from diabetes and incisional hernia and was operated for right renal mass in February 1996. The insurer also alleged that the life assured was operated again for the same problem on 13.06.1997 and also availed leave on medical grounds for 72 days during the period 26.06.1997 to 05.09.1997;
- iii) Sec. 45 of the Insurance Act 1938 was applicable under the claims as the insurer repudiated the claims after expiry of two years from the date of commencement of the policies. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act 1938. The said section provides, inter-alia that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to be disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to be disclose. The said provision lays down three coonditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose
to
disclose
(2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;

- iv) In support of their repudiation, the only evidence obtained and submitted was a medical certificate dated 21.06.1997 issued by BBR Hospital, Hyderabad. According to this certificate, the life assured was admitted in their hospital as he was suffering with diabetes mellitus and incisional hernia of (Rt) side of the anterior abdominal wall, on 06.06.1997. It was also reported by the hospital authorities that the insured was operated upon on 13.06.1997 for the incisional hernia;
- v) According to the information obtained by the insurer from the employer of the life assured in their claim form E, the insurer also obtained and submitted copies of leave applications and medical certificates submitted by the insured to his employer;
- vi) Although the insurer repudiated the claim alleging that the life assured suffered from diabetes mellitus, no attempt was made by the insurer to obtain any concrete evidence relating to the details of treatments the insured had for diabetes. Barring the above medical certificate, the insurer did not obtain any documents/evidences like case sheets, admissions particulars, discharge summary from BBR Hospital for the operation the life assured had for right renal mass in 02/1996 or the subsequent operation alleged to have been performed to the life assured on 13.06.1997. These details are highly essential and important to sustain their repudiation action since Sec. 45 of the Insurance Act 1938 was applicable under the claims;
- vii) However, as regards suppression of facts, I find that the LIC thoroughly investigated the matter and proved that the life assured did suppress certain facts. Now it would be relevant to refer to the certificate dated 21.06.1997 issued by BBR Hospital, Hyderabad. According to this certificate, the life assured was operated upon for incisional hernia on 13.06.1997. Strangely, the authorities did not mention even admission number or in-patient number of the hospital. Therefore, while there is undoubtedly a suppression of the fact that he was suffering from diabetes mellitus and incisional hernia of (Rt) side of anterior abdominal wall and the subsequent operation for incisional hernia on 13.06.1997, it does not establish that he fraudulently did it. To establish fraud, the LIC would have to prove in this case that it was their normal practice not to give insurance policies in favour of people suffering from the above disease and the life assured by not divulging the fact obtained policies thereby gaining an advantage for himself vis-a-vis other policyholders. Since it is not the policy of LIC to deny insurance policies to people suffering from the above ailments at the time of inception of the policy by the life assured, it does not constitute fraud. Even if the life assured had divulged the above material facts, the life assured would have been considered for insurance, perhaps, by suitably loading the premiums;
- viii) Also the life assured was examined by authorised medical examiner of LIC and on the basis of his report only, the policies in question were issued;
- ix) Further, it would be pertinent to mention that the insurer could not prove that the suppressed material facts had a real nexus with the cause of death of the life assured. If there was a nexus, the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before Insurance Ombudsman to drive home its contentions;
- x) The only contention of LIC appears to be violation of the principle of utmost good faith. Having regard to the fact that the fact not disclosed is not affecting consideration of the insured for insurance and the fact that the undisclosed information apparently had no nexus with the cause of death and the fact that the insurer could not obtain and submit full particulars relating to treatment for diabetes mellitus and the fact that the insurer also failed to obtain and submit the case sheets/hospital records/discharge summary for the admission and treatments in BBR Hospital, Hyderabad on 06/1997 and also the fact that the repudiation action of the insurer did not fulfil all the three ingredients required for repudiating a claim under 2nd part of Section 45 of the Insurance Act 1938, I am left with no alternative to agreeing with the contention of the complainant;

- xi) Having regard to the facts and circumstance as discussed above, I am of the view that it is only fit and proper to direct the insurer to settle the claims under the aforesaid policies.

Therefore, for the reasons as mentioned above, I hold that the repudiation of the claims of the complainant under the aforesaid policies by the insurer is not legal, correct and proper and hence I direct the Corporation to settle the Sum Assured under the policies subject to recovery of any extra premium, if any, charged for incisional hernia as per the underwriting norms of LIC in force.

In the result, the complaint is allowed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0261 / 2004 - 05
Shri K. R. Parameswarappa
Vs.
Life Insurance Corporation of India

Award Dated 4.1.2005

Facts of the Case : One Smt. Yadavalli Manjula, W/o Shri K. R. Parameswarappa, working as teacher and a resident of Adoni in Kurnool District took two life Insurance Policies in 03/2001 and 12/2002 from Adoni Branch of LIC of India, under Cuddapah Division. The life assured died on 26.12.2003. The cause of death was reported to be **Carcinoma Rt. Breast**. Shri K. R. Parameswarappa, who is the nominee and complainant under the policies, lodged a claim with the LIC. The LIC repudiated his claims on 31.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that even before she proposed for the above policies, she suffered from **carcinoma right breast** and took treatment for the same. She, however, did not disclose these facts in the proposals. Finding the life assured to be guilty of deliberate suppression of material facts relating to her health at the time of taking the insurance policies, LIC repudiated the claims.

Decision :

I heard the contentions of the insurer and also perused all the documents including the written submissions of both the parties :-

- i) The life assured took one Jeevan Suraksha Insurance Policy in 03/2001 for a Sum Assured of Rs. 70,000/- and another Endowment Assurance Policy in 12/2002 for a Sum Assured of Rs. 30,000/-. The life assured was working as a teacher and was a resident of Kurnool District. She died on 26.12.2003. The duration of the claims from risk date was between 2 to 3 years and hence the insurer arranged for investigation into the bonafides of the claims;
- ii) The insurer repudiated the claims on the ground that the life assured had suppressed material facts relating to her health prior to taking the insurance policies. According to the insurer, the life assured suffered from **carcinoma right breast** prior to taking the insurance policies and took treatment in a hospital.
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Medwin Hospitals, Hyderabad. According to the treatment particulars obtained by the insurer in the form of discharge summary from this hospital, the life assured received external radiotherapy during 16.02.2001 to 17.03.2001. The hospital authorities advised the life assured to report to them after 15 days for considering treatment of chemotherapy. The hospital authorities also reported in the claim form B obtained by the insurer that the life assured was admitted there on 03.02.2001 and discharged on 12.02.2001. The diagnosis arrived by them was carcinoma of right breast. The Primary

cause of death was reported to be carcinoma right breast and the duration of illness was reported as 3 years by the hospital authorities;

- iv) According to the information obtained by the insurer from the employer of the life assured in their claim form E, the life assured availed leave on medical grounds during the period 03.02.2001 to 17.03.2001. The insurer also obtained copy of the leave application submitted by the life assured to her employer at the time of availing the leave;
- v) According to Mosby's Medical Dictionary 2003 (Page No. 183), the implications of Carcinoma are "a malignant epithelial neoplasm that tends to invade surrounding tissue and to metastasize to distant regions of the body. It develops most frequently in the skin, large intestine, lungs, stomach, prostate gland, cervix or breast";
- vi) The admission and treatment referred to above was prior to taking the insurance policies. This also established the fact that the life assured was not enjoying good health at the time of executing the proposals for insurance. They were well within her knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposals for insurance to enable the LIC to assess the risk in right perspective. Instead, she suppressed the information by not furnishing correct information to the relevant questions in the proposal forms and thereby induced the insurer for issue of the policies;
- vii) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of executing the proposals for insurance, they would not have issued the policies in question. Further, the suppressed material facts also had a nexus with the ultimate cause of death of the life assured. Even the complainant also did not dispute the fact of the consultations and the treatments for breast cancer;
- viii) In the circumstances of this case, therefore, the suppression of material facts by the life assured is very clear. The facts suppressed were obviously material to the assessment of the risk. The misleading intention is also very clear, in that, the life assured had not disclosed the disease in the proposal forms submitted by her for the purpose of insurance policies, although she was very much aware of the same;
- ix) Contract of Insurance being a contract of good faith (Uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts, which may be relevant to the insurer to take into account while assessing the risk in the right perspective;
- x) The insurer, in the present case, had repudiated the 1st claim invoking the provisions of the 2nd part of Section 45 of the Insurance Act 1938. In other words, the insurer proved beyond doubt, that there was not only a clear suppression of material facts but also fraudulent intent on the part of the insured and was therefore, well within his right to invoke 2nd part of Section 45 of the Insurance Act 1938 in the present case and repudiated the claim;
- xi) Sec. 45 of the Insurance Act 1938 was not applicable under the 2nd claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance;
- xii) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance

policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;

xiii) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the 1st claim by invoking the provisions of 2nd part of Sec. 45 of the Insurance Act 1938 by fulfilling all the three ingredients as required under the said section and repudiation of the 2nd claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to her health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0332 / 2004 - 05
Smt. R. Lakshmi Devi
Vs.
Life Insurance Corporation of India

Award Dated 4.1.2005

Background : One Shri Ramisetty Peddaveeraiah S/o Shri Raghavaiah, doing cultivation and a resident of Jammalamadugu Mandal in Cuddapah took the above insurance policy from Jammalamadugu Branch of LIC, under Cuddapah Division. The policy covered the risk of accidental benefit, in case of death by accident, as per the policy conditions. The life assured died on 29.05.2002. The cause of death was reported to be murder. LIC settled the claim for Basic Sum Assured but repudiated/rejected the claim for accidental benefit alleging that the insured committed Breach of Law by involving himself in illegal activities. According to the insurer, the death of the life assured (murder) also did not come under the purview of accidental clause of the policy.

Decision :

I have carefully perused the papers placed before me including the written submissions of the complainant and also heard the arguments of both sides:

- a) The life assured took a life insurance policy in 03/1999 for a Sum Assured of Rs. 25,000. The policy covered the risk of accident benefit in case of death of the life assured by accident. He died on 29.05.2002. The cause of death was reported to be murder;
- b) LIC settled the claim for Basic Sum Assured but repudiated/rejected the claim for accident benefit. Their investigations revealed to them that the life assured committed breach of law by indulging provocative acts, as per the police reports obtained and submitted to Insurance Ombudsman by the insurer. In support of their contentions, the insurer also obtained police reports in Cr. No. 31/2002. The Sub Inspector of Police, Jammalamadugu Police Station enquired into the death of the life assured and submitted the charge in the Court of Judicial First Class Magistrate at Jammalamaduru. Post Mortem Report opined the cause of death as "cardiac arrest due to shock due to injury to the neck and blood loss". According to the Police Inquest Report, the life assured was reported to be a rowdy sheeter registered with the police station. He was a resident of Cuddapah District and doing cultivation. According to the charge sheet filed/submitted by the Sub Inspector of police, the life assured was murdered because of old rivalries/vengance. The life assured was also registered as a rowdy sheeter with Peddamudium Police Station. The life assured and his brother had heated arguments over family matter when the life assured threatened to kill his brother. When the life

assured was sleeping in his cot, he was found to be murdered and a criminal case was filed against his brother. But 1st Class Judicial Magistrate, Jammalamadugu where the case was tried, acquitted the accused of the criminal charge filed against him;

- c) The insurer relied entirely on the police reports, FIR and Charge Sheet preferred in the Criminal Court for repudiating the claim of the complainant. According to the insurer, the police have proved provocation and breach of law on the part of the life assured when he was murdered.
- d) The charge sheet filed by the police dealt only with criminal case against the accused. The charge did not establish beyond doubt that the life assured conducted any unlawful act or breach of law. The Hon'ble Court, who tried the case, also did not express any opinion relating to these aspects. The court only acquitted the accused of the charge of murdering the life assured;
- e) Admittedly there was no appeal against the decision of lower court. In the result the brother of the deceased life assured whom the deceased life assured was held by the insurer to be have provoked was not the person who killed the deceased life assured. The deceased life assured died in his sleep when somebody (not his brother according to the court) hacked his head. As the killer was not even identified, it cannot be held that is the altercation between the deceased life assured and his brother that lead to the murder/death of the deceased life assured.

Thus, the repudiation/rejection of the complainant's claim for accident benefit is neither legal nor correct and hence the decision of the insurer warrants interference at my hands and accordingly, I direct the insurer to settle the claim for accident benefit also.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21/ 001.0301 / 2004 - 05
Smt. K. Ramanjanamma
Vs.
Life Insurance Corporation of India

Award Dated 5.1.2005

background : One Shri Kumara Rangaswamy, S/o Shri Rangappa, an agriculturist and a resident of Anantapur District took a Marriage Endowment Assurance Policy in 03/1999 from Hindupur Branch under Cuddapah Division. The life assured died on 08.06.2003. The cause of death was reported to be murder. According to the terms and conditions of the policy, the Basic Sum Assured is paid on the date of maturity. The policy also covered the risk of accidental benefit in case of death by accident, as per the policy conditions. The insurer repudiated / rejected the claim for accidental benefit invoking the policy condition clause 10 (b) (i) alleging that the life assured was under the influence of intoxicating alcohol when he was murdered.

Decision :

I heard the contention of both parties and also perused all the documents placed before me :-

- i) The life assured took a marriage endowment insurance policy in 03/1999 for a Sum Assured of Rs. 41,000. According to the terms and conditions of this policy, the Basic Sum Assured along with bonus would be payable on the date of maturity. The life assured died on 08.06.2003. The cause of death was reported to be murder;
- ii) The policy also covered the risk of accident benefit, in case of death by accident, as per the policy conditions;
- iii) Since it was an unnatural death, the insurer obtained police reports viz. First Information Report (FIR), Post Mortem Report (PMR) and Police Inquest Report (PIR). The Post Mortem Report opined the cause of death "Hemorrhage Shock due to

injuries". In the Police Inquest Report, the Panchayatdars also opined that the insured consumed toddy and liquor;

- iv) In this connection, it is pertinent to mention the relevant policy condition. **"the Corporation shall not be liable to pay the additional sum (accident benefit) if the death of the life assured shall be caused by intentional self injury, attempted suicide, insanity or immorality or whilst the life assured is under the influence of intoxicating liquor, drug or narcotic"**. In the instant case, the insurer rejected accidental benefits under the policy based on the report of the Inspector of Police, Penukonda PS which has a definite bearing to the policy condition referred above. The Inspector of Police, Penukonda PS, in his report dated 10.09.2003 in Cr. No. 70/2003 reported that on 07.06.2003 the life assured and the accused sent their goats to the village through H. Gangadri; then both of them consumed toddy and cheap liquor; on their way back to the village, the deceased in a state of intoxication threatened the accused that he would murder him; the accused was annoyed and therefore, pushed him down to the ground and cut his throat with a sickle and concealed the body under a road bridge;
- v) The report of the Inspector of Police, Penugonda PS clearly established that the life assured was under the influence of alcohol. No contrary evidence was let in by the complainant as she did nothing more than denying the allegations of the insurer. As the policy condition excluded payment of accident benefit when the life assured died owing to the influence of alcohol, I am of the view that the repudiation of the claim for accident benefit by the insurer based on the available evidence and policy conditions is proper, correct and justified and therefore, does not warrant any interference at my hands.

In the result, the complaint is dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0331 / 2004 - 05
Smt Sirli Simhachalamma
Vs.
Life Insurance Corporation of India

Award Dated 11.1.2005

Facts of the Case : One Shri Sirli Dalayya, S/o Shri Sirli Ramayya, working as Village Servant and doing cultivation and a resident of Srikakulam District in Andhra Pradesh, took a Life Insurance Policy from Rajam Branch of LIC of India, under Visakhapatnam Division. The life assured died on 09.08.2003. The complainant reported the cause of death as sudden death. Smt. Sirli Simhachalamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 29.02.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **HIV + ve** and took treatment from a doctor in a hospital. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision :

I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties :-

- i) The life assured took a Jeevan Mitra Triple Cover Endowment Assurance Policy in 05/2003 for a Sum Assured of Rs. 50,000. The life assured was working as Village Servant and doing cultivation and was a resident of Srikakulam District in Andhra Pradesh. He died on 09.08.2003. The duration of the claim from risk date was just 2

months and 11 days and hence the insurer arranged for investigation into the bonafides of the claim;

- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from HIV + ve and took treatment from a doctor, prior to taking the insurance policy;
- iii) In support of their repudiation action, the insurer obtained medical evidence from Dr. K. Chiranjeevi, Medical Officer, VCTC, Area Hospital, Palakonda. According to the Medical Certificate dated 02.02.2004 issued by Dr. K. Chiranjeevi of the above hospital, the life assured Sirli Dalayya **underwent HIV counselling and testing at VCTC of Area Hospital, Palakonda on 15.03.2003 with PID No. PK/03/0441 and found to be positive for HIV;**
- iv) The above counselling and testing for HIV was just 3 months prior to taking the insurance policy. This also established the fact that the life assured was not enjoying good health at the time of taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- v) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of taking the insurance policy, the insured would have been advised to undergo several special medical tests and consideration or otherwise of the life assured for insurance would be dependant on the findings of these reports;
- vi) Sec. 45 of the Insurance Act 1938 was applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 2 months and 11 days only and the life assured paid just 2 Quarterly premiums;
- vii) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted.
- viii) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaints fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0303 / 2004 - 05
Smt Y. Sakunthala
Vs.

Life Insurance Corporation of India

Award Dated 13.1.2005

Facts of the Case : One Shri Yadlapati Subba Rao, S/o Shri Y. Bhushiah, working as driver in APSRTC and a resident of Gudivada in Krishna District took a Jeevan Anand Life Insurance Policy under Non-medical Scheme from Career Agents' Branch of LIC India, under Machilipatnam Division. The life assured died on 01.07.2003. The cause of death was reported to be heart attack. Smt. Yadlapati Sakunthala, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 19.04.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he availed **leave on sick grounds for 257 days on different intervals during the period 01.03.2000 to 28.05.2002**. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties;

- i) The life assured took a Jeevan Anand Life Insurance Policy in 06/2002 for a Sum Assured of Rs. 100000 under Non-medical Scheme (without undergoing medical examination). The life assured was working as driver in APSRTC and was resident of Krishna District in Andhra Pradesh. He died on 01.07.2003. The duration of the claim from risk date was just 1 year only and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured fell sick and availed leave on medical grounds for 257 days on different intervals during 01.03.2000 to 28.05.2002, prior to taking the insurance policy;
- iii) In support of their repudiation, the insurer also obtained information from the employer of the life assured. The employer reported that the insured availed **leave on medical ground during the period 05/2001 to 05/2002**. The insurer also obtained copies of medical certificates, as per which the insured availed leave during **17.05.2001 to 03.07.2001** for treatment of **viral hepatitis and fever**; **19.11.2001 to 21.11.2001** for **viral hepatitis**; **13.12.2001 to 30.12.2001** for **fever and hepatitis** and **25.04.2002 to 29.05.2002** for **enteric fever and viral hepatitis**;
- iv) The consultation and treatment for the various ailments referred above was just 1 month prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- v) According to underwriting norms of LIC, had the life assured disclosed the material facts relating to his sickness for hepatitis, they would not have considered the insurance for six months and after the waiting period of six months, the life assured would have been advised to undergo medical test and consideration or otherwise of the insured for insurance would be dependant on the findings of these reports;
- vi) The policy under dispute was issued by the insurer under Non-medical Scheme, without undergoing medical examination by authorized medical examiner of LIC and there is, therefore, more responsibility cast on the insured to disclose all material facts to the insurer;
- vii) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts

having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just one year only and the life assured paid just one year's premium;

- viii) AS the contract of insurance being contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- ix) Therefore, I have to hold for the reasons as aforesaid the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0285 / 2004 - 05
Smt Hakeem Ghouse Bee
Vs.
Life Insurance Corporation of India

Award Dated 13.1.2005

Facts of the Case : One Shri Hakeem Gulam Dasthageer, S/o Shri Hakeem Ibrahim, working as driver in APSRTC and resident of Kurnool, District took an Endowment Assurance Policy from Nandyal Branch of LIC of India, under Cuddapah Division. The life assured died on 12.07.2003. The complainant reported the cause of death as **heart attack**. Smt. H. Ghose Bee, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 10.03.2004, citing the reason that the life assured, while proposing for insurance, the life assured gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **heart attack** and took treatment for the same. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy LIC repudiated the claim.

Decision : I heard the contentions of both side and also perused all the documents including the written submissions of both the parties :

- i) The life assured took an Endowment Assurance Policy in 03/2003 for a Sum Assured of Rs. 75000. The life assured was working as driver in APSRTC and was a resident of Kurnool District in Andhra Pradesh. He died on 12.07.2003. The cause of death was reported as heart attack. The duration of the claim from risk date was just 4 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from heart attack prior to taking the insurance policy and took treatment in a hospital;
- iii) In support of their repudiation action, the insurer obtained treatment particulars form District Hospital, Nandyal. According to the treatment particulars obtained by the insurer in their claim form B/B1 from this hospital, the life assured was admitted there on 12.07.2003 vide hospital No. 8030 with complaints of chest pain and breathlessness.

The insured died in the hospital itself while undergoing treatment on 12.07.2003. itself. The diagnosis arrived by the hospital authorities was **Acute Myocardial Infarction**. The **Duration of illness** was reported by the hospital authorities as **six months**.

- iv) In support of their repudiation action, the insurer also obtained case record from Andhra Pradesh Vaidhya Vidhan Parishad. It was reported in the case record that the life assured had history of similar attack **six months back**. The wife of the life assured reported the facts of illness/history to the hospital authorities;
- v) According to the information obtained by the insurer from the employer of the life assured, the deceased life assured availed **leave on medical grounds** during the period **25.12.2002 to 10.01.2003**. This was also prior to taking the insurance policy;
- vi) The treatment confirmed by the above hospital records established the fact that the life assured was not enjoying good health at the time of executing the proposal for insurance. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- vii) The insured had not disclosed the factum of his illness heart attack and underwent treatment for the same to the insurer and that the disease had a nexus with the ultimate cause of death of the life assured;
- viii) Sec. 45 of the Insurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 4 months only and the life assured paid just 4 monthly premiums;
- ix) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- x) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L / 21.001.0236 / 2004 - 05
Shri John Sailesh
Vs.
Life Insurance Corporation of India

Award Dated 18.1.2005

Facts of the Case : The life assured late Smt. Aruldas Madhuri, W/o late Aruldas, working as Khalasi and a resident of Hyderabad, took two life insurance policies from City Branch-III of Life insurance Corporation of India under Hyderabad Division, as per the furnished

above. The insured died on 27.04.2002. The complainant reported the cause of death as Carcinoma Cervix. Shri A. Shailesh, who is the nominee and complainant under the policies, lodged a claim with the life assured, while proposing for insurance, gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that even before the insured proposed for the above policies, he suffered for Carcinoma Cervix and took treatment for the same. She, however, did not disclose these facts in the proposals. Finding the life assured to be guilty to fraudulent suppression of material facts relating to her health at the time of taking the insurance policies, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents placed before me.

- a) The life assured took Money Back Insurance Policy in 01/2000 for a Sum Assured of 50,000. She also took a Jeevan Mitra Double Cover Endowment Assurance Policy in 11/2000 for a Sum Assured of Rs. 25000. Both the policies were considered under **Non-medical Scheme, without undergoing medical examination by authorized medical examiner of LIC**. The policies were taken under Salary Savings Scheme. Later, the life assured died on 27.04.2002. The cause of death was reported to be **Carcinoma Cervix**. Since the duration of the claims was between 2 to 3 years, the insurer arranged for investigation of the claims;
- b) The contention of the LIC was that the life assured suffered from Carcinoma Cervix and took treatment for the same during the year 1999 and later, which was prior to his taking the insurance policies. It was also alleged by LIC that the life assured had deliberately suppressed these material facts by not furnishing correct information to the relevant question in the proposal forms and hence they repudiated the claims;
- c) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured suppressed the facts, which it was material to disclose. The said provision lays down three conditions for the applicability of the second part of section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material disclosed;
- d) According to the case sheet and OP slip of Government General Hospital, Hyderabad, the life assured consulted them on 18.10.2000 with complaints of c/o bleeding P/v since 3 months and again consulted them on 19.10.2000 and took treatment. The diagnosis arrived by the hospital authorities was **CA.Cervix IIB**;
- e) In support of their repudiation, the insurer obtained Discharge Summary from CDR Hospital, Hyderabad. According to the discharge summary of the hospital, the life assured was admitted there on 23.01.2001 vide In-patient no. 16799 and discharged from the hospital on 14.02.2001. According to the discharge summary, the life assured was reported to be a **known case of CA. Cervix. In the month of October 1999, patient had 12 sittings of Radiotherapy at MNJ Cancer Hospital. Known case of APD since one year**”;

- f) According to the Medical Certificate dated 15.01.2002 issued by CDR Hospitals, Hyderabad, the life assured was also admitted in their hospital on 08.01.2002 vide IP No. 18391 and took treatment upto 15.01.2002. The diagnosis arrived by them was **“Carcinoma Cervix with Infiltration of Blader Base”**;
- g) The insured had not disclosed the factum of her illness of Carcinoma Cervix and the treatment she had for the same to the insurer; and the disease had also a nexus with the ultimate cause of death of the life assured. There is, therefore, fraudulent suppression of material facts relating to her health condition on the part of the life assured;
- h) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of taking the insurance policies, they would not have considered the life assured for insurance;
- i) The above facts clearly established the fact that the life assured was not in good health at the time of executing proposal for insurance;
- j) The policies were taken under non-medical scheme, without undergoing medical examination by authorised medical examiner of LIC. Therefore, more responsibility is cast on life assured to disclose all material facts truthfully to the Insurer to enable them to assess the risk in the right prospective. Instead, she had deliberately suppressed the relevant material facts and thereby induced the insurer for accepting her proposals for insurance;
- k) Since the complainant disputed the contentions of the insurer that the life assured took treatment even prior to taking the insurance policies by submitting copies of hospital records, I advised the insurer to obtain sufficient evidence/proof from the hospital and submit the same to me for my further consideration. Although more than a month passed, the insurer failed to obtain and submit any concrete evidences relating to treatment of the insured for carcinoma cervix prior to taking the 1st policy. The evidences submitted by the insurer proved that the insured was under treatment for carcinoma cervix only prior to taking the 2nd policy and not the 1st policy. Thus, so far as the first policy is concerned, the insurer, therefore had not proved its case to the hilt by cogent and clear evidence;
- l) Having regard to the facts and circumstance of the case as discussed above and also the manner in which the claim made by the complainant under the aforesaid 1 st policy was dealt with by the insurer without taking note of the ground realities, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the 1 st policy (641477728).
- m) Policy no. 642199809: - It is settled law that the contract of insurance is based on good faith. The information as to insured having suffered from cancer before the policy was taken was established beyond doubt by the Insurer. It is for the insured to give correct information about her health while executing the proposal for insurance, which she did not, disclose at that time. This ground of correct information and false statement regarding her health make the insurance contract null and void and thus rendered the contract void abnatio;
- n) Therefore, I have to hold for the reasons as aforesaid and in light of the submissions of the complainant herself as referred to above, the repudiation of the claim by the Insurer on the ground that the insured had fraudulently suppressed material facts relating to his health at the time of taking the insurance policy has to be upheld on law as well as on facts and does not warrant any interference at my hands.
- o) The complaint is therefore, allowed with respect to Policy No. 641477728 and dismissed with respected to 642179809.

Shri Cherukuri Rajeshwari
Vs.
Life Insurance Corporation of India

Award Dated 19.1.2005

Facts of the Case : One Shri Cherukuri Venkateswara Rao, S/o Shri Ch. Sitaramayya, doing cultivation and a resident of Bapulapadu mandal in Krishna District, took a life Insurance Policy in 10/2001 from Eluru Branch -1 of LIC of India, under Rajahmundry Division. The life assured died on 05.06.2003. The complainant reported the cause of death as **sun stroke/fever**. Smt. Cherukuri Rajeshwari, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 01.02.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **Evolved Anterior Wall Myocardial Infarction** and took treatment for the same in a hospital during the period 02.08.2001 to 05.08.2001. Further, the life assured was also reported to be a diabetic. He, however, did not disclose these facts in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties:-

- i) The life assured late Ch. Venkateswara Rao took an Endowment Insurance Policy in 10/2001 for a Sum Assured of Rs. 50000/-. The mode of payment of premium was quarterly. The life assured was doing cultivation and was a resident of Krishna District. He died on 05.06.2003. The duration of the claim from risk date was 1 year and 7 months and hence the insurer arranged for investigation into the bonafides of the claims;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insured, the life assured suffered from **diabetes and Evolved Anterior Wall Myocardial Infarction**, prior to taking the insurance policy and took treatment in a hospital;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from CARE Hospital, Hyderabad. According to the treatment particulars obtained by the insurer in the form of hospital records from this hospital, the life assured was admitted there on 02.08.2001 vide In-patient No. 31527 and discharged on 05.08.2001 According to the hospital records, the life assured was admitted there with complaints of acute anterior wall myocardial infarction; thrombolysed with UK 15 lac unit; known diabetic; smoker. It was also reported in the records that the life assured had VF twice - defibrillated; had V7-Cardiaverted; V7 again degenerated to VF-defibrillated and the insured also had CAG;
- iv) The above admission and treatment thereto was just three months before his taking the life insurance policy. This also established the fact that the life assured was not enjoying good health while executing the proposal for insurance. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposals for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- v) It would be relevant to mention here that the insurer for issue that the repudiation of the claim was done by the insurer on 01.02.2004. Therefore, the 2nd part of Sec. 45 of the Insurance Act 1938 was applicable. The implication is that the LIC has to fulfil all the

three ingredients required under the said section before considering repudiation of the claim;

- vi) As regards the suppression of material facts, I find that the LIC had thoroughly investigated the matter and proved that the life assured did suppress certain facts. There is, therefore, undoubtedly a suppression of material facts by the life assured at the time of executing the proposal for insurance policy;
- vii) The insurer could not prove with requisite material evidence that the suppressed material fact had any nexus to the cause of death of the life assured;
- viii) It would also be pertinent to mention here that both the life assured and complainant hail from rural area with complete rural background and knowledge. The insured also paid premiums for about two years in the instant case. The repudiation of the total claim should naturally affect the complainant and her family adversely;
- ix) In view of the above facts, I am of the view that it is just and proper to meet ends of justice to direct the insurer to refund the entire premia paid by the life assured till his death as ex gratia by invoking Rule 18 of the Redressal of Public Grievances Rule 1998 on humanitarian grounds and hence the insurer is directed to refund the entire premia paid by the life assured till his death as ex gratia to the complainant;

In the result, the complaint is dismissed subject to (ix) above.

Hyderabad Ombudsman Centre
Case No. L- 21 - 001 - 0309 - 2004 - 05
Smt. Kamala V. Idamdar
Vs.
Life Insurance Corporation of India

Award Dated 30.1.2005

Facts of The Case : One Shri V. G. Inamdar, S/o Shri Govindachar, working as Secretary in Gram Panchayat and a resident of Bijapur District in Karnataka, took a Life Insurance Policy IN 01/2003 FOR A SUM ASSURED OF Rs. 25000/- from Channagere Branch of LIC of India, Under Udupi Division. The life assured died on 14.03.2003. The cause of death was reported to be heart attack. Smt. Kamala V. Inamda, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 16.02.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from diabetes, hypertension, bronchial asthma and heart problem and took treatment during 09/2001 and 07.04.2002 to 15.04.2002. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION : I heard the contentions of the insurer and also perused all the documents including the written submission of both the parties :

- (i) The life assured took an Endowment Assurance Policy in 01/2003 for a Sum Assured of Rs. 25000. The life assured was working as Secretary in Gram Panchayat and was a resident of Bijapur District in Karnataka. He died on 14.03.2003. The duration of the claim from risk date was just 45 days and hence the insurer arranged for investigation into the bonafides of the claim;
- (ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from diabetes mellitus, bronchial asthma and hypertension besides heart problems and took treatment in a hospital, prior to taking the insurance policy. It was also alleged by the insurer that the life assured availed leave on sick grounds for 25 days, prior to taking the insurance policy;

- (iii) In support of their repudiation action, the insurer obtained treatment particulars from Bapuji Hospital, Devangere. According to the treatment particulars obtained by the insurer in the form of hospital records, the insured was first admitted in the hospital on 07.04.2002 vide In-patient No. 417171 with Complaints of chest pain and was discharged on 15.04.2002. The diagnosis arrived by the hospital authorities was **Anterior Septal Myocardial Infarction** and the hospital authorities advised the insured to take rest for three weeks ;
- (iv) It was reported by the hospital authorities in the case sheet that the life assured was a known patient of **diabetes mellitus-8 years on regular treatment; known patient of bronchial asthma – 7 years and a known case of hypertension few days on treatment ;**
- (v) According to the information obtained by the insurer from ,the employer of the life assured in their claim form E, the life assured availed leave on medical grounds during the periods **06.09.2001 to 30.09.2001 and 06.04.2002 to 30.04.2002**. It is observed that during 04/2002 when he availed leave, the life assured was hospitalized and took treatment for his heart problems;
- (vi) The complainant in her letter dated nil addressed to Insurance Ombudsman reported the cause of death as sudden and also did not dispute about health condition of the life assured;
- (vii) Incidentally, there is nexus between the material facts suppressed and the case of death of the life assured on 14.03.2003;
- (viii) The consultation and treatment referred to above was just 8 months prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- (ix) Sec. 45 of the Insurance Act 1938 was not ;applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of policy, the insurer is under no obligation to prove that the suppression of material facts having leaving upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 48 days only and the life assured paid just one half-yearly premium;
- (x) As the contract of insurance being a contract of utmost good faith (ubberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for insurer to take into account while deciding, whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- (xi) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complainant files and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre

Case No. L / 21.001.0379 / 2004 - 05
Smt. Ulka Sudhir Kerkar
Vs.
Life Insurance Corporation of India

Award Dated 30.1.2005

Facts of the Case : One Shri Sudhir Mangesh Kerkar, S/o Shri Mangesh Kerkar, doing business and a resident of Shimoga in Karnataka took an Endowment Assurance Insurance Policy from Shimoga Unit-1 Branch of LIC, under Udupi Division. The policy lapsed due to non-payment of premiums due from 12/2002. Later, the life assured got the policy revived on 23.07.2003 by paying the arrears of premiums from 12/2002 and also submitted a declaration of good health form, as required by LIC. The life assured died on 24.08.2003. The cause of death was reported to be **Cardio-pulmonary arrest**. Smt. Ulka Sudhir Kerkar, the complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving the insurance policy, gave false answers to certain questions in the declaration of good health form, submitted by him. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the declaration of good health form for revival of his lapsed policy, he suffered from **Bipolar affective disorder, Chronic alcohol dependence, Chronic nicotine dependence, hyper triglyceridaemia** and took treatment in a hospital during the period 01.04.2002 to 04.04.2002. He, however, did not disclose these facts in the declaration of good health form executed by him on 22.07.2003. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of reviving the insurance policy, the insurer repudiated the claim.

Decision : I heard the contentions of the insurer and perused all the documents, including the written submission of the complainant, placed before me.

- a) The life assured took an Endowment Assurance Policy in 06/1999 for a Sum Assured of Rs. 100000. The mode of payment of premium was half-yearly. The life assured paid premiums upto 06/2002. Subsequent premiums due from 12/2002 were not paid and hence the policy remained in a lapsed condition. The insured got the policy revived on 23.07.2003 by paying the arrears of premiums and also submitted Declaration of Good Health form, as required by LIC. Later, the life assured died on 24.08.2003. The duration of the claim from revival was just **one month**. Since it was a very early claim, the LIC arranged for investigation of the claim;
- b) LIC repudiated the claim alleging that the life assured had fraudulently suppressed material facts relating to his health as he suffered from bipolar affective disorder, Chronic alcohol dependence, Chronic nicotine dependence, hyper triglyceridaemia and took treatment for the same while executing the declaration of good health form for revival of his lapsed policy;
- c) In support of their repudiation action, they obtained the relevant hospital records from Mallya Hospital, Bangalore. According to the discharge summary of Mallya Hospital, Bangalore, the life assured was **first admitted there on 01.04.2002 vide hospital no. 222337 and discharged on 04.04.2002**. The life assured was admitted with complaints of euglycemic and known case of hypotension and depression-on treatment. The final diagnosis arrived by the authorities was **"Bipolar Affective Disorder; Chronic Alcohol Dependence; Chronic Nicotine Dependence and Hypertrigly Ceridaemia"**. It was also reported in the discharge summary of the hospital that the life assured was a Smoker-Previous 80 cigarettes/day and at present he smoked 20 cigarettes/day. The **admission** and the treatment thereto was **prior to revival of the policy**;
- d) In continuation of the above and just before death, the life assured was admitted in the same hospital on 10.08.2003 vide hospital no. 222337 and died in the hospital while undergoing treatment on 24.08.2003. The cause of death was reported as **CARDIO PULMONARY ARREST; ACUTE PANCREATITIS (ETHANOL INDUCED); BIPOLAR**

AFFECTIVE DISORDER AND ASPIRATION PNEUMONIA. It was also reported by the authorities that the U/S abdomen (**very poor Ultrasound window showed bulky pancreas with mild left pleural effusion, mild ascites, mild hepatomegaly with mild fatty changes;**

- e) The above admission and treatment clearly establish the fact that the life assured was not enjoying good health at the time of revival of the policy;
- f) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of revival of the insurance policy, they would not have considered the life assured for revival immediately as the life assured was reported to be suffering from the above diseases/ailments, even prior to revival of the policy;
- g) It is beneficial to mention here that the 2nd part of Sec. 45 of the Insurance Act, 1938 is applicable as the repudiation of the claim was made after two years from the date of commencement of risk under the policy. The said provision lays down three conditions for the applicability of the second part of section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured and (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose. In other words, the insurer must ensure that its repudiation fulfills all the above 3 ingredients necessary for repudiation of the claim;
- h) On a perusal of the hospital records, it is established beyond doubt that the diagnosis for the above disease was well before revival of the Insurance policy. In the circumstances of this case, therefore, the fraudulent suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. From the foregoing facts of the case, it became evident that the life assured was not in good health at the time revival of the insurance policy from the insurer and he had conveniently suppressed the material facts of his ill health intentionally to defraud the insurer. Therefore, the fraudulent intention is also very clear, in that, the life assured had not disclosed the disease in the declaration of good health form submitted by him for the purpose of revival of his lapsed policy, although he was very much aware of the same;
- i) It is a settled law that the contract of insurance is based on good faith. The information as to the insured having suffered from all the above diseases as confirmed by the hospital at Bangalore before the revival of the policy was established beyond doubt on the basis of the medical evidences submitted by the insurer. It is for the insurer to give correct information about his health while executing the declaration of good health form for revival of the policy, which he did not disclose at that time. This ground of incorrect information and false statement regarding his health make the revival of the policy as null and void;
- j) Therefore, I have to hold for the reason as aforesaid and also in the light of medical evidences available on record as referred to above, the repudiation of the claim by setting aside the revival, by the insurer on the ground that the insured had fraudulently suppressed material facts relating to his health at the time of revival of the insurance policy has to be upheld on law as well as on facts and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. L / 21 / 003 / 0299 / 2004 - 05
Smt. Sujayakumari
Vs.

TATA AIG Life Insurance Co. Ltd.

Award Dated 31.1.2005

Facts of the Case : One Shri S. Nagesh, working as tax consultant and a resident of Bangalore, took a Assure 15 Years Life line (With Return of Premium) insurance policy for a Sum Assured of Rs. 400000 from TATA AIG Life Insurance Company Limited at Bangalore in 07/2003. The life assured died on 17.01.2004. The cause of death was reported to be heart attack. Smt. Sujayakumari, who is the nominee and complainant under the policy, lodged a claim with the TATA AIG Life Insurance Co.Ltd. But the TATA AIG Life Insurance Co.Ltd., repudiated her claim on 31.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain question in the proposal form. It was also stated by the insurer that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **diabetes mellitus since 10 years** and was under treatment for **Coronary Artery Disease since July 2001**. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, the insurer repudiated the claim.

Decision : I heard the contentions of both sides also perused all the documents including the written submissions of both the parties :-

- i) The life assured took one Assure 15 Years Lifeline (With Return of Premium) Insurance Policy from TATA AIG Life Insurance Company Limited for a Sum Assured of Rs. 400000 in 07/2003. The insured was a tax consultant and resident of Bangalore. He died on 17.01.2004. The duration of the claim from risk date was just 6 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured Suffered from **diabetes mellitus since 10 years** and was under treatment for **Coronary Artery Disease since July, 2001** and took treatment in a hospital, prior to taking the insurance policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Mallya Hospital, Bangalore. According to the treatment particulars obtained by the insurer in the form of discharge summary, the insured was first admitted in the hospital on 01.07.2001 vide In-patient No. 68533 with complaints of breathlessness and h/o orthopnoea. The life assured was also reported to be having h/o diabetes mellitus and was on treatment. He was discharged from the hospital on 04.07.2001. The final diagnosis arrived by the hospital authorities was **Triple Vessel Disease, Mild LV Dysfunction and Diabetes Mellitus**. It was reported in the discharge summary that the life assured had **Echo**, which had shown **LV dysfunction with symptoms of pulmonary congestion**. The insured also had **Coronary Angiogram** indicating **Ischaemic Heart Disease ann Type-II Diabetes Mellitus**. This admission and the treatment thereto **was prior to taking the insurance policy**;
- iv) According to the treatment particulars obtained by the insurer from Narayana Hrudayalaya, Bangalore, the life assured was admitted in the hospital on 27.06.2002 with complaints of H/o orthopnoea since 2 days/pedal oedema/abdominal distension and discharged on 29.06.2002. The final diagnosis arrived by the authorities was **CAD-Triple Vessel Disease; Congestive Cardiac Failure; Type 2 Diabetes Mellitus; Essential Hypertension & Diabetic Retinopathy and Nephropathy**. This admission was also prior to taking the insurance policy;
- v) According to the discharge summary of Narayana Hrudayalaya, Bangalore, the life assured was admitted there on 10.10.2003, vide admission no. 17196 with complaints of CAD-Triple Vessel Disease with diabetic nephropathy and discharged on 15.10.2003. The final diagnosis arrived by the hospital authorities was **Ischaemia Cardiomyopathy**,

Severe LV dysfunction, Cognitive Cardiac Failure, Diabetic Nephropathy and Chronic Renal failure;

- vi) Further, according to the Lakeside Medical Centre & Hospital, Bangalore, the life assured was reported to have had CABG at MIOT Hospital, Chennai and was a diabetic mellitus 15 years besides heart attack **one-year back**. This h/o of heart attack **goes back prior to taking the insurance policy**;
- vii) All the above admissions and treatments, when arranged chronologically, clearly established beyond doubt that the life assured was not enjoying good health at the time of taking the insurance policy. In fact, the complainant herself, during the course of investigation also reported the above facts to the representative of the Insurer. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the insurer to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- viii) Incidentally, there is nexus between the material facts suppressed and the cause of death of the assured on 17.01.2004;
- ix) Sec. 45 of the Insurer Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 6 months only and the life assured paid just one instalment premium;
- x) As the contract of insurance being a contract of utmost good faith (ubberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- xi) Therefore, I have to hold for the reasons as aforesaid the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21/ 002 / 0312 / 2004 - 05
Smt. O. Padmavathy Devi
Vs.
SBI Life Insurance Co. Ltd.

Award Dated 31.1.2005

Facts of the Case : One Shri Oruganti Venugopal, S/o late Kameswara Rao, a resident of Madanapalli in Chittoor District in Andhra Pradesh took a Sudarshan Policy-Plan A in 11/2003 for a Sum Assured of Rs. 100000 from SBI Life Insurance Company Limited, Mumbai. The mode of payment of premium was quarterly. Accordingly, the premium were

payable on 21st November, February, March and August of every year. As per the Schedule -Part III: terms and conditions -premium Payments" A grace period of 30 days will be allowed for payment of quarterly/half-yearly/yearly premiums and 15 days grace period for monthly premium options. If the premium is not paid before the expiry of the days of grace, the policy will lapse. If death occurs during the grace period, the Basic sum Assured will be paid after deduction of premiums then due and all premium falling the policy year". In the instant case, the premium due 21.05.2004 fell due for payment. After allowing the grace period of one month, the premium had to to paid before 19.06.2004 This was not paid Hence the policy lapsed Inview of the terms and conditions of the policy, the insurer repudiated / rejected the claim of the complainant as the policy was not in force as on the date of death of the life assured.

Decision: I heard the contentions of both sides and also perused all the documents, placed before me.

- a) The life assured took a Sudarshan Policy-Plan A in 11/2003 for a Sum Assured of Rs. 100000 from SBI Life Insurance Company Limited. The date of commencement of risk under the policy was 21.11.2003. The mode of payment of premium was quarterly and the instalment premium was Rs. 874.00;
- b) As per the schedule of the policy the premiums under the policy were payable on the 21st November, February, May and August of every year. The life assured paid premium upto 21.02.2004 only. Premium due 21.05.2004 was not paid by the life assured;
- c) Now it would be relevant to refer to the terms and conditions governing the policy. According to Schedule - Part-III Terms and conditions (3) Premium Payment "a grace period of 30 days will be allowed for payment of quarterly/half yearly/yearly premiums and 15 days grace period for monthly premium options. If the premium is not paid before expiry of the days of grace, the Policy will lapse. If death occurs during the grace period, the Basic Sum Assured will be paid after deduction of the premium then due and all premiums falling due during the Policy Year";
- d) Now in the instant case, the life assured had to pay the premium due on 21.05.2004. This premium had to be paid by him before 21.06.2004 (before expiry of grace period). But this was not done by the life assured. Hence the policy lapsed. According to the complainant, they sent a demand draft for the premium due only on 21.07.2004 and the same was received by the insurer on 30.07.2004. But the life assured died on 25.07.2004 itself. That is, the demand for the premium was received by the insurer after the death of the life assured;
- e) The construction of the Insurance Policy including its terms and conditions will form the basis of Contract of Insurance;
- f) In view of the above facts and the policy conditions, the repudiation/rejection of the claim of the complainant by the insurer invoking the terms and conditions of the policy is correct and proper and does not call for any interference at my hands.

The complaint is, therefore, not allowed. The insurer is, however, directed to refund the premium due 21.05.2004 received by him on 30.07.2004 in the form of demand draft, with interest, as per IRDA regulation, if not already done.

**Hyderabad Ombudsman Centre
Case No. L / 21 / 003 / 0367 / 2004 - 05
Smt. Shrimathi Ananth
Vs.
TATA AIG Life Insurance Co. Ltd.**

Award Dated 12.2.2005

Facts of the Case : One Shri Bejadi Anathashayana, S/o Shri B. Ramakrishnaiah, working as Accounts Manager and a resident of Bangalore took a Nirvana Plan in 03/2003 for a Sum Assured a Rs. 200000 from TAT AIG Life Insurance Company Limited Bangalore. The life assured died on 05.05.2004. The cause of death was reported to be heart attack. The life assured, while submitting the proposal for insurance on 22.03.2003. gave false answers to certain questions relating to his health in the proposal form. It was also stated by the insurer that they held indisputable proof to show that even before he proposed for insurance, he had symptoms of drooping of right eyelid in March 2002 suspected Occular Myasthenia. The life assured, however, did not disclose these material facts at the time of taking the insurance policy. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, the insurer repudiated the claim.

Decision : I heard the contentions of both parties and also perused all the documents including the written submission of the complainant placed before me.

- i) The life assure took a Nirvana Insurance Policy in 03/2003 for a Sum Assured of Rs. 200000 from TATA AIG Life Insurance Company Limited, Bangalore. The life assured died on 05.05.2004. The cause was reported to be heart attack. The duration of the claim was Just 1 year and 1 months only. The claim was repudiated by the insurer on 20.07.2004 on the ground that the life assured had deliberately suppressed material facts relating to his health before taking the insurance policy in question;
- ii) According to the insurer, even before the life assured proposed the above policy, he had symptoms of drooping of right eyelid in March 2002 and was diagnosed of suspected Occular Myasthenia, which was not disclosed, in the insurance application signed on 22.03.2003;
- iii) In support of their repudiation, the insurer obtained medical prescriptions said to have been issued by Nethra Dhama, Super Speciality Hospital, Bangalore for the consultations, the life assured had for drooping of right upper eyelid-Ocular myasthenia. According to the medical prescription issued by this hospital, the life assured consulted them on 15.03.2002. This consultation, certainly is prior to taking the insurance policy in question;
- iv) The only one piece of evidence the insurer relied upon was the above prescription as referred (iii) above which incidentally does not contain the name of the life assured or his address. The total lack of information about the patient besides supportive evidences like case sheet, register or record of myasthenia and its course of treatment lend support to the complainant's contention that the life assured did not consult the hospital/doctor in 03/2002 and it was only in 02/2004, the insured had the problem. This was only after taking the insurance policy;
- v) Thus, the evidence relied upon by the insurer is too flimsy to suffice for repudiation of the claim of the complainant;
- vi) The life assured was reported to be an accountant with a private company. If the deceased life assured suffered from Myasthenia for as long as the insurer would like me to believe, he could not have conceivably carried on the job of an accountant: and the insurer could have obtained evidence in this regard at the work place of the deceased life assured. The insurer did not muster such evidence. The benefit of doubt should go to the complainant and her contention that deceased life assured was afflicted with myasthenia only in the year 2004 after the policy at issue was taken passes muster. Further, it is nobody's case that myasthenia could kill the afflicted;
- vii) Further, it was not apparently insurer's practice to deny insurance policy for a person having myasthenia. It is very much pertinent to mention here that the insurance is also covered for blind persons with standard extras. Under these circumstances, by mere suppression of the fact of myasthenia, the insured could not have gained anything vis-a-

vis other policyholders. Had the insured disclosed the above material facts, perhaps, the insurer would have loaded the premium and offered insurance and would not have denied insurance in total;

- viii) Even for invoking 1st part of Sec. 45 of the Insurance Act, 1938, there should be an amount of credible, reliable and acceptable evidence to substantiate the repudiation. A mere two lines of casual description on a medical paper without supporting evidence has no value of its own;
- ix) In this connection, it is also profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies. "In course of time, the Corporation has grown in size and at present, it is one of the largest public sector financial undertakings. The public in general and the crores of policyholder in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charges of management of the affairs of the Corporation should bear in mind that its credibility and reputation depend on its prompt and efficient service. Therefore, the approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be one of extreme care and caution. It should not be dealt with in a mechanical and routine manner";
- x) In the present case, the insurer had not proved its case to the hilt by cogent and clear evidence. It is only a futile attempt on the part of the insurer to cash on documents which fail to substantiate the allegations of the insurer.
- xi) Having regard to the facts and circumstances of the case, as discussed above and also the manner in which the claim was made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above policy;
- xii) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified.
- I therefore, direct the insurer to settle the claim under the policy for full sum assured.
The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. L / 21 / 001 / 0293 / 2004 - 05
Smt. T. Radha
Vs.
Life Insurance Corporation of India

Award Dated 4.2.2005

Facts of the Case : One Shri Thuthari Krishna Murthy, S/o Shri Narasaiah, working as teacher and a resident of Khammam District in Andhra Pradesh took three Life Insurance Policies from Khammam Branch of LIC of India, under Warangal Division. The life assured died on 06.09.2002. The cause of death was reported to be heart attack. Smt. T. Radha, who is the nominee and complainant under the policies, lodged a claim with the LIC. The LIC repudiated her claims on 14.11.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policies, he suffered from **hepatitis** and took treatment for the same. The insurer also alleged that the life assured availed **leave on sick grounds for 149 days during 05.09.2001 to 31.01.2002**. He, however, did not disclose these facts in the proposals. Instead, he gave false answers to the relevant questions in the proposal forms. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policies, LIC repudiated the claims.

Decision : I heard the contentions of the insurer and also perused all the documents including the written submissions of both the parties:

- i) The life assured took a Jeevan Mitra Triple Cover Endowment Assurance Policy in 12/2001 for a Sum Assured of Rs. 200000 and two Endowment Assurance Policies in 05/2002 for a Sum Assured of Rs. 2,00,000 and Rs. 3,00,000 respectively. The life assured was working as a teacher and was a resident of Khammam District. He died on 06.09.2002. The duration of the claims from risk date was just 9 months and 5 months respectively. Since they were all very early claims, the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policies. According to the insurer, the life assured was reported to have suffered from **hepatitis** and took treatment from a doctor. It was also alleged by the insurer that the life assured availed leave on sick grounds for 149 days, prior to taking the insurance policies;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Dr. I. Ramesh Chandra of Sathupally. According to the medical certificate dated 21.10.2003 issued by this Doctor, the life assured was under his treatment as out-patient for hepatitis and he advised the life assured to take rest for four months;
- iv) **Pol.No. 682109745** : According to the information obtained by the insurer from the employer of the life assured, the insured availed leave on medical grounds during 06.12.1997 to 15.07.1998. Further, as per the treatment particulars obtained by the insurer from Dr. I. Ramesh Chandra in their form no. 5152, the life assured consulted him on 05.09.2001 with complaints of hepatitis/vomiting. The duration was reported as 2 days. The life assured was also reported to be on half-pay during 05.09.2001 to 08.10.2001 followed by earned leave and extra ordinary leave till 31.01.2002. The proposal for insurance was executed by the life assured on 28.12.2001. This established the fact that the life assured was not only on leave but also reported to be under treatment for hepatitis, during which period the insurance could not be considered by LIC, as per their underwriting norms. Further 1st part of Sec. 45 of the Insurance Act. 1938 was applicable;
- v) In view of suppression of above material facts by the life assured, I am of the view that the repudiation of this claim by the insurer is proper and correct and does not warrant any interference at my hands and the action of the insurer is justified. The complaint is, therefore, not allowed under this policy.
- vi) **Pol. Nos. 682110150 and 682110151** : Both these policies were considered by the insurer under medical schemes. In fact, the insured underwent several special medical tests including blood tests. The findings of all these reports were reported to be normal and no abnormalities were reported. The policies were accepted by the insurer on the basis of these reports;
- vii) The insured was reported to have consulted Dr. I. Ramesh Chandra for hepatitis for the first time on 05.09.2001. The waiting period of 6 months for hepatitis expired before execution of proposals for these two policies. After expiry of six months, the insured underwent the above special medical tests and the findings were also normal, which clearly established the fact that the life assured was keeping in good health;
- viii) Cause of death was reported to be heart attack. There was no nexus between the material facts suppressed and the cause of death. The insurer also could not secure and submit before the Insurance Ombudsman any other evidence relating to the fact that the life assured was on continuous treatment for hepatitis. In the absence of these details, the benefit of doubt should be given to the life assured / nominee;

- ix) In view of the above facts and in the absence of supportive evidence, I am of view that the repudiation of these claims by the insurer is not proper, legal and correct and not justified;
- x) I, therefore, direct the insurer to settle the claims under these two policies. In the result, the complaint is allowed under these two policies only.

Hyderabad Ombudsman Centre
Case No. L / 21 / 001 / 0310 / 2004 - 05
Smt. Julekabee
Vs.
Life Insurance Corporation of India

Award Dated 7.2.2005

Background : The life assured late Shri Khaja Hussain, S/o Shri Ghousia, working as a Mechanic Grand - II in KPTCL and a resident of Koppal in Karnataka took two life insurance policies from Hospet Branch of LIC under Raichur Division, as per the details furnished. The insured died on 02.06.2003 due to heart attack. The duration of the 1st claim was 1 year & 9 months and that of the second claim was just 1 year & 3 months only. Smt. Julekabee, who is the nominee and complainant under the policies, lodged, a claim with the LIC. But the claims were repudiated by the LIC of India, citing the reason that the life assured, while submitting the proposals for insurance in 08/2001 and 02/2002, gave false answers to certain question relating to his health in the proposal forms. The insurer also alleged that they held indisputable proof to show that even before he proposed for insurance, he was reported to be a known heart patient and took treatment for the same. The life assured, however, did not disclose these material facts at the time of taking the insurance policies. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policies, the insurer repudiated the claims.

Decision : I have carefully perused the papers including the written submissions of the complainant placed before me and heard the agreements presented by both sides.

- i) The life assured late Khaja Hussain, S/o Shri Ghousia, working as Mechanic Grade-II in KPTCL and a resident of Koppal in Karnataka took two life insurance policies in 09/2001 for a sum assured of Rs. 80,000/- and 03/2002 for a sum assured of Rs. 40,000/- respectively. He died on 02.06.2003. The cause of death was reported to be heart attack. Since the duration of the claim was less than 2 years, the insurer arranged for investigation into the bonafides of the claims;
- ii) Both the above claims were repudiated by LIC on the ground that the life assured, while proposing the insurance policies, deliberately suppressed material facts relating to his health as the life assured was reported to be a heart patient and took treatment for the same even before he took the insurance policies;
- iii) In support of repudiation action, the insurer obtained information from the employer of the life assured in the form of a letter. According to the letter dated 12.11.2003 of KPTCL, Koppal, the life assured was reported to be known heart patient and took medical reimbursements from them. It was also reported by the employer that the life assured availed medical reimbursements as : 05/2001 (Rs. 875.00) ; 07/2001 (Rs. 1631.00); 10/2001 (Rs. 2121.00); 11/2001 (Rs. 2536.00); 02/2002 (Rs. 466.00); 05/2002 (Rs. 945.00); 07/2002 (Rs. 941.00) and 09/2002 (Rs. 990.00); The reimbursements upto 02/2002, were all prior to taking the insurance policies in question;
- iv) Policy No. 661356401 : Section 45 of the Insurance Act 1938 is applicable under the claim. Before discussing the facts of the case further, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force

of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The said section lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;

- v) The life assured was medically examined by the panel doctor of LIC and found the life assured to be medically fit for insurance. Although the insurer held the insured to be a heart patient, he could not produce any other evidence relating to the adverse health condition of the life assured prior to taking the insurance policy. Instead, the insurer chose to repudiate the claim simply on the basis of a letter obtained from the employer wherein they reported that the insured availed medical reimbursements. Especially, when the insured was reported to have availed medical reimbursements, the insurer ought to have probed further and secured supportive evidences like treatment particulars, details of doctors/hospitals consulted, dates of consultations, full particulars of medicines used by the life assured for treatment of his heart problem, etc. to sustain their repudiation action. The insurer repudiated the claim after 2 years and hence such vital information is very essential to strengthen their repudiation action. The only contention of the LIC appears to be violation of the principle of utmost good faith. In the absence to treatment particulars relating to heart problem and the fact that the repudiation action of the insurer did not fulfil all the three ingredients required for repudiating a claim under 2nd part of Section 45 of the Insurance Act. 1938, I am of the view that it is only fit and proper to direct the insurer to settle the claim under policy;
- vi) Having regard to the overall circumstances of the case, I have no hesitation to hold that the repudiation of the claim by the insurer is unreasonable and unjust especially when the insurer could not prove fraudulent intent on the part of the life assured beyond doubt. I therefore, direct the insurer to settle the claim.
- vii) **Policy No. 661357363** : In the instant case, Sec. 45 of the Insurance Act. 1938 is not applicable. The implication is that the insurer reserved the right to repudiate the claim if there is any untrue averment in any of the documents leading to issue of the policy. The insurer need not prove fraudulent intent on the part of the life assured. Further, the policy is governed by warranty clause also;
- viii) It is a settled law that the contract of insurance is a contract of utmost good faith. Therefore, it is incumbent on the insured to disclose all the material facts to the insurer to enable him to assess the risk in the right perspective. In the instant case, the insured violated the principle of utmost good faith.
- xi) Although the insured was reported to be a heart patient and availed medical reimbursements as confirmed by his employer, the life assured ought to have disclosed these material facts to the insurer to enable the insurer to assess the risk. Instead, he suppressed the information to enable the insurer to assess the risk. Instead, he suppressed the information by not furnishing correct information to the relevant question in the proposal form;
- x) In view of the above facts, I hold the repudiation action of the insurer is just proper and correct and does not call for my interference. The complaint is accordingly dismissed.

In the result, complaint under **Policy No. 661356401** is **allowed** and complaint under **Policy No. 661357363** is **dismissed**.

Hyderabad Ombudsman Centre
Case No. L / 21 / 001 / 0255 / 2004 - 05
Shri Shrishail Veerappa Karoli
Vs.
Life Insurance Corporation of India

Award Dated 8.2.2005

Facts of the Case : One Shri Sanjay Veerappa Karoli, S/o Veerappa Karoli, doing saree business and a resident of Bagalkot District in Karnataka took a Jeevan Mitra Triple Cover Endowment Life Insurance Policy in 03/2001 from Jamkhandi Branch of LIC of India, under Belgaum Division. The life assured died on 04.11.2001. The cause of death was reported to be stomach pain and high fever. Shri Shrishailappa Veerappa Karoli, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 15.10.2003, citing the reason that the life assured obtained insurance through impersonation. The insurer also alleged that the signatures of the assured on the proposal form and medical report were not genuine. It was also stated by the LIC that they held indisputable proof in support of their contentions / allegations.

Decision : I heard the contentions of both sides and also perused all the documents including the written submission of both the parties :

- i) The life assured took two Jeevan Mitra Triple Cover Endowment Insurance Policies by executing the necessary proposals in 12/2000 and 03/2001 for a Sum Assured of Rs. 100000 each. The life assured furnished his occupation as turner in a factory in the 1st policy but reported his occupation as saree merchant in the 2nd policy. The insured died on 04.11.2001. The duration of the claims was only about 7 months and since they were early claims, the insurer arranged for investigation into bonafides of the claims;
- ii) The complainant reported the cause of death as stomach pain and high fever. The investigation officials of LIC reported that the life assured was suffering from AIDS about one year before death. In facts, the LIC agent through whom the policies were secured also reported that the life assured was HIV positive but the same was not disclosed to him for informing the insurer. But the insurer failed to secure any evidence to substantiate the above allegation; and hence the insurer settled claim under the 1st policy (Policy No. 632622364);
- iii) According to the insurer, the signatures of the life assured on the two proposal forms and the medical reports did not tally. Therefore, the insurer sought opinion of the Government Examiner for Questioned Documents (GEQD), Government of India, Hyderabad by referring the proposal forms and medical reports to GEQD. The Government Examiner reported that signatures appearing in the 1st proposal and medical report did not agree with the ones appearing in the 2nd proposal and medical report and that there was variation in signatures. The GEQD also opined that **different persons** had signed the two proposal. This, therefore, establish beyond doubt that there was impersonation and a calculated attempt was made to defraud the LIC;
- iv) In support of their repudiation, the insurer also compared the signature of the life assured as appearing in the proposal forms with the SSLC Certificate of the life assured which confirmed that they were totally at variance with the 2nd policy while they were consistent with the 1st policy;
- v) The evidences relied upon and submitted by the insurer established beyond doubt that there was total impersonation on the part of the life assured and that a calculated attempt was made to defraud the LIC. It is also pertinent to note that Corporate Office of LIC directed their subordinate offices to initiate action against the earring personnel. According to the documents submitted to me, no such action appears to have been

initiated by them. In any considered opinion, a fraud of this nature and magnitudes is possible only with the connivance of Agent, Panel Doctor and some Personnel of the Insurance Company. I urge the designated authority in the insurance company to probe thoroughly and throw the book at all the culprits;

- vi) Meanwhile, I hold for the reasons aforesaid, that the repudiation of the claim by the insurer on the grounds of impersonation based on the available evidences is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21 / 001 / 0291 / 2004 - 05
Smt. M. Rudramma
Vs.
Life Insurance Corporation of India

Award Dated 14.2.2005

Facts of the Case: One Shri M. Pakkeerappa, S/o Shri M. Gurappa, working as teacher in UJS Girl's High School at Ujjini in Bellary District of Karnataka took an Endowment Assurance Policy from Harapanahalli Branch of LIC of India, under Raichur Division. The life assured died on 24.05.2003. The cause of death was reported to be heart attack. Smt. M. Rudramma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 04.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from asthma and took treatment in a hospital during 12/2002. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of both parties :-

- i) The life assured took an Endowment Assurance Policy in 02/2003 for a Sum Assured of 50,000/-. The life assured was working as teacher in Bellary District in Karnataka. He died on 24.05.2003. The duration of the claim from risk date was just 3 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured **suffered from Acute severe asthma** and took treatment in a hospital, **prior to taking the insurance policy**. It was also alleged by the insurer that the life assured suppressed this vital material information from the insurer and obtained the policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from City Central Hospital, Devangere. According to the treatment particulars obtained by the insurer in the form of 'hospital records, the insured was first admitted in the hospital on **09.12.2002 vide In-patient No. 003044 with complaints of breathlessness, cough with expectoration - 7 days and was discharged on 13.12.2002**. The diagnosis arrived by the hospital authorities was **acute severe asthma** and the hospital authorities prescribed hospital necessary medicines for treatment;
- iv) The complainant in the claim form A also reported that the life assured consulted the above hospital for treatment in 12/2002;

- v) According to Mosby's Medical Dictionary 2003 (Page No. 97), the implications of asthma are "a respiratory disorder characterized by recurring episode of paroxysmal dyspnea, wheezing on expiration, coughing and viscous mucoid bronchial secretions";
- vi) Incidentally, there is nexus between the material facts suppressed and the cause of death of the life assured on 24.05.2003;
- vii) The consultation and treatment referred to above was just 2 months prior to taking the insurance policy. They were well within his knowledge and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy;
- viii) Sec. 45 of the Insurance Act, 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 3 months only and the life assured paid just 3 monthly premiums;
- ix) It is settled law that the contract of insurance is based on good faith. The information as to the insured having suffered from acute severe asthma before the policy was taken and the hospitalization for the same which were well within the knowledge of the insured ought to have been disclosed to the insurer. This ground of incorrect information and false statements regarding the health of the life assured make the insurance contract null and void;
- x) As the contract of insurance being a contract of utmost good faith (ubberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- xi) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45, of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at may hands.

In the aforesaid circumstances, the complaint fails and is dismissed as
devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21 / 001 / 0276 / 2004 - 05
Smt. M. Umasundari
Vs.
Life Insurance Corporation of India

Award Dated 14.2.2005

Facts of the Case: One Shri M. Subrahmanyam, S/o Shri M. Seshagiri Rao, working as mechanic in APSRTC and a resident of Nellore took the above life insurance policy from City Branch -II of LIC, under Nellore Division. The mode of payment of premium was Salary Savings Scheme. The life assured died Suddenly on 16.08.2003 and the cause of death was reported to be heart attack. Smt. M. Umasundari the complainant under the Policy lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason

that the life assured, while submitting the proposal for insurance, gave false information relating to his occupation and in terms of the policy contract and the declaration contained in the form for proposal, he had not informed them about change in his occupation. It was also stated by the LIC that proposal for insurance was submitted in 03/2003; that the life assured requested to change the sum assured and term of the policy in 08/2003; and that the insured was served with a notice by his employer for removal from service on 31.08.2002 itself. He, however, did not disclose these facts to the insurer, as per the declaration executed by him in the proposal for insurance. Finding the life assured to be guilty of deliberate suppression of material facts relating to his occupation at the time of taking the insurance policy, the insurer repudiated the claim.

Decision : I heard the contention of both sides and perused all the documents, including the written submissions of the complainant, placed before me.

- a) The assured was given by the insurer a Jeevan Mitra Double Cover Endowment Assurance Policy in 08/2003 for a Sum Assured of Rs. 30000 under Non-medical Scheme though the insured submitted his proposal as early as on 15.03.2003 and paid a deposit of Rs. 274/- towards premium on or before 15.03.2003. In the relevant proposal for his policy, the insured furnished his occupation as mechanic in APSRTC. The life assured died on 16.08.2003. The cause of death was reported to be sudden heart attack. Since it was a very early claim, the insurer arranged for investigation into the bonafides of the claim.
- b) LIC repudiated the claim alleging that the life assured, while executing the proposal for insurance policy, suppressed material information relating to his occupation. According to the insurer, the life assured submitted a proposal dated 15.03.2003 for a Sum Assured of Rs. 25000 seeking a Jeevan Mitra Double Cover Endowment Policy on 17.03.2003; and, since the life assured did not submit age proof, which was a very valid document for calculation of premium, the said proposal did not result into policy. Later, the life assured submitted a letter dated 14.08.2003 requesting them to increase the sum assured to RS. 30000. There is unusual lapse of time of about five months between the day, the proposal was submitted by the DLA and the day the policy was issued. The insurer lays the cause for the delay at the door of the DLA stating that the DLA did not furnish age proof They could not produce any evidence for alleged reminders sent to DLA for the age proof and the DLA is not alive to state his version. In my opinion, the DLA, being an employee of APSRTC, could have got a letter from his employer certifying his age according to their register. However, the insurer contends that they received the age proof on 18.08.2003 and that, immediately they accepted the proposal and there requirement to and issued the relevant policy document by accepting the risk. According to the insurer, they received the age proof after the death of the life assured it was also alleged by the insurer that the life assured was not an employee of APSRTC, when he submitted the proposal for insurance and hence, as per the declaration executed by him in the proposal, the life assured ought to have informed them change in his occupation. Since the life assured didnot disclose/ inform them the change in occupation, they repudiated/ rejected the claim.
- c) In support of their ,repudiation action, the insurer obtained a letter-dated 19.04.2003 issued by APSRTC authorities, Nellore wherein it was reported that the life assured was removed form service with effect from 19.04.2003. According to claim form E obtained by the insurer from the employer of the life assured, the date on which the life assured last attended his duties was 11.08.2002 and he was removed from services on 19.04.2003. But the RTC authorities vide their communication to Branch Manager, LIC, Nellore reported that the late Shri M. Subrahmanyam (DLA) last attended duties on 31.03.2003. The statements/reports of the employer of the life assured establish the fact that the insured was not an employee of RTC as on 01.04.2003. The life assured, therefore, ought to have informed this fact to the insurer to enable the insurer to assess

the risk in the right perspective. There is, therefore, violation of principle of utmost good faith, which is the basis of insurance contract.

Per contra, the DLA was employee, though unauthorizedly absent from duty, as on 15.03.2003, the proposal date. He also paid necessary premium by way of deposit. He was educated up to 10th Standard and could not be literate about procedures of the insurer. One has to take into consideration, in the context, that the Agent does not normally explain to the prospective insurance holder all the terms and conditions. Perhaps the agent did not explain to the DLA the clause relating to change of occupation. As the insurer accepted the proposal form and the premium deposit, the DLA could, understandably if not rightly, be under the impression that he was not required to do any thing further to get the policy. Besides, as contended by the complainant, suspension, termination, appeal and reinstatement are quite ordinary in the APSRTC and the DLA could be under the impression that he would be reinstated on appeal. Nevertheless, I agree that non-communication by the DLA of his dismissal from service to the insurer is a lapse, but it is not fatal under the given circumstances.

- d) With reference to age proof the insurer stated that they received the proof (viz. S.S.C. original) only on 18.08.2003. A Xerox copy of this is furnished. On careful scrutiny, it is seen that some body initialed it at the top right corner. There is no other evidence like seal of the officer, date stamp etc. on the documents. The representative of the insurer, who was present at the time of hearing, was given sufficient time to identify the person who put his initials/signature. So far, the latter is not identified. Further, the years, handwritten, could be "2" or "4". Lastly, one can not ignore the contention of the complainant that, as the DLA died on 16.08.2003, he could not have submitted age proof on 18.08.2003 and that, if the statement of the insurer that the policy came into force as soon as all the formalities including age proof, were completed is correct, they could not have stated the date of commencement as 14/16.08.2003. Therefore, the contention of the insurer that the policy was issued on receipt of age proof fails and the delay in the issue of policy remains unexplained.
- e) According to the underwriting norms of LIC, policies are also considered under Non-medical general Scheme without insisting for standard age proof. In the instant case, however, the life assured submitted his school certificate. He was very much eligible for insurance under Non-medical Scheme for the amount insured by him, of course, under endowment assurance policy. Therefore, the insurer can not totally deny insurance policy to the life assured.
- f) The investigating official of the insurer also reported that the life assured was enjoying good health at the time of taking the insurance. The life assured was also reported to be attending to his duties regularly.
- g) In view of the clear underwriting provisions as mentioned above; in view of the fact that the insurer could not submit documentary evidence to the effect that he had requested the life assured through reminders to submit age proof in time; in view of the fact that the intricacies like warranty/declaration in the proposal form could not be understood by a lay man like a mechanic in APSRTC, as in the present case and in view of the fact that the insurer could not secure any other adverse evidence relating to the health of the life assured prior to taking the insurance policy, I am of the view that the total repudiation/rejection of the claim is not justified. The total repudiation of the claim on mere technical reasons, would not only put the family of the insured in hardship and but also shatter the confidence of tens and thousands of policyholders in the Efficacy and efficiency of the Life Insurance Corporation of India in the speedy of claims under the insurance policies. Considering the totality of the circumstances as referred above, I am of the view that it is only, just and proper to meet the ends of justice to direct the insurer to make a payment of Rs. 30000 (Rupees thirty thousand only), being the face

value of the policy, as ex-gratia by invoking Rule 18 of the Redressal of Public Grievance Rule 1998.

- h) In the result, the complaint is considered under ex-gratia for face value of the policy Rs. 30000 (Rupees thirty thousand only).

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0320 - 2004 - 05
Smt. Kanithi Lakshmi
Vs.
Life Insurance Corporation of India

Award Dated 17.2.2005

Facts of the Case: One Shri Kanithi Ramana, S/o Late Shri K. Ramulu working in Visakhapatnam Steel Plant, Visakhapatnam and a resident of Visakhapatnam took two Life Insurance Policies under Non-medical Scheme from Gajuwaka Branch of LIC of India, under Visakhapatnam Division. The life assured died on 11.02.2003. The cause of death was reported to be **heart attack**. Smt. Kanithi Lakshmi, who is the nominee and complainant under the policies, lodged a claim with the LIC. The LIC repudiated her claims on 31.01.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policies, he suffered from hypertension and took treatment for the same. He, however, did not disclose these facts in the proposals. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claims.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties :

- i) The life assured took two Endowment Assurance Policies in 03/2002 and 08/2002 for a sum Assured of Rs. 50000 each. The life assured was working in Visakhapatnam Steel Plant at Visakhapatnam and a resident of Visakhapatnam. He died on 11.02.2003. The cause of death was reported to be "**Chronic disorder of heart valve**". The duration of the claim from risk date was just 11 months and 6 months and hence the insurer arranged for investigation into the bonafides of the claim;
- ii) The insurer repudiated the claims on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policies. According to the insurer, the life assured suffered from from hypertension and took treatment for for the same, prior to taking the insurance policy;
- iii) In support of their repudiation action, the insurer obtained treatment particulars from the hospital maintained by the employer of the insured where the deceased life assured was admitted and took treatment. As per the Medical Record cum Identity Book issued by Visakhapatnam Steel Plant, Visakhapatnam, the life assured was admitted there on 28.11.2001 and was diagnosed to be "**Hypertension with alcoholic withdrawal with Bicuspid Aortic with LV dysfunction**". After treatment, he was discharged on 29.11.2001;
- iv) The life assured died while he was performing his duties. This was brought to the notice of police and a case was also registered by the police vide Cr. no. 04/2003. The police authorities arranged post mortem of the body. According to the post mortem, the cause of death was "**Hyponia to the brain due to insufficiency of blood supply to brain due to, incompetency of aortic and mitral valves of heart - a natural chronic disorder of heart valves**". The Inspector of Police, Steel plant L & O Circle IV, Visakhapatnam, reported that, as per his investigations and as per the post mortem report, the cause of death is "**heart failure due to incompetency of aortic and mitral valves of heart**";

- v) The reports of the police and the medical records of the employer of the life assured clearly established the fact that the life assured was not enjoying good health at the time of taking the insurance policies and that the insured was very much aware of his treatment for heart problem. The life assured, therefore, ought to have disclosed them to the insurer for assessing the risk. Both the policies were considered by the insurer under Non-medical Scheme, without undergoing medical examination by authorised medical examiner of the insurer. More responsibility was cast on the insured to disclose all material facts relating to his health., which the insured failed to disclose;
- vi) During the course of the hearing, it was contended by the representative of the complainant that the recordings in the medical register were not correct and that he would obtain the medical register from the employer and submit the same to me through the insurer. Till date, there was not response from the complainant or representative of the complainant;
- vii) Sec. 45 of the Insurance Act 1938 was not applicable under the claims as the claims were repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policies had run for just 11 months and 6 months respectively and the premiums were paid accordingly;
- viii) As the contract of insurance being a contract of utmost good faith (ubberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted;
- ix) Therefore, I have to held for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.
- In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0324 - 2004 - 05
Smt. K. Shailashree
Vs.
Life Insurance Corporation of India

Award Dated 2.3.2005

Background : The life assured late Shri K.V. Shamasunder, S/o Shri K. Vishshwaraiyya, working as lecturer in DVS Evening Colleege, Shimoga and a resident of Hubli, took three life insurance policy from Shimoga-I Branch of LIC undet Udupi Division, as per the details furnished. The insured died on 17.02.2003. The duration of the 1st two claims was 2 years and 10 months and that of the 3rd claim was just one year. Smt.K. Shaileshree, who is the nominee and complainant under the policies, lodged claim with the LIC. But the claims were repudiated by the LIC of India, citing the reason that the life assured, while submitting the proposals for insurance in 03/2000 and 01/2002, gave false answers to questions relating to his health in the proposal forms. The insurer also alleged that they held

indisputable proof to show that even before he proposed for insurance, he had been suffering **from Epilepsy for about 11 years** and was taking **regular treatment**. It was also stated by LIC that the life assured was reported to have had **a full blown attack in 07/1997** and was treated with drug therapy as he was consulting doctors as an out patient. The life assured, however, did not disclose these material facts at the time of taking the insurance policies. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policies, the insurer repudiated the claim.

Decision : I have carefully perused the papers including the written submissions of the complainant placed before me and heard the arguments presented by both side.

- i) The life assured late K.V. Shamsundar, S/o late K. Vishweshwaraiah, working as English lecturer in DVS Evening College, Shimoga took two life insurance policies in 03/2000 for a sum assured of Rs. 100000 and Rs. 200000 and another policy in 01/2002 for a sum assured of Rs. 500000. He died on 17.2.2003. The cause of death was reported to be Cardiac arrest. Since the duration of the claims was between 2 to 3 years, the insurer arranged for investigation into the bonafies of the claims.
- ii) All the three claims were repudiated by LIC on the ground that the life assured, while proposing the insurance policies, deliberately suppressed material facts relating to his health as the life assured was reported to be an epileptic patient and took treatment for the same, even before he took the insurance policies.
- iii) In support of repudiation action, the insurer obtained treatment particulars from Manasa Nursing Home, (Psychiatry Inpatient Record Sheet), Shimoga. According to the case record, the life assured was admitted there on 12.07.1997 vide hospital no 039075 and discharged on 13.07.1997. The final diagnosis arrived by the hospital no. 039075 and discharged on 13.07.1997. The final diagnosis arrived by the hospital authorities was **Epilepsy**. It was reported by the hospital authorities in the case records that the life assured was **"a known epileptic since 8 years and had a full blown attack with LOC for 3-4 minutes on 12.07.1997. Further, past 7 years, he had sudden jerking movements of the body for few seconds 3-4 times otherwise attacks free"**.
- iv) **Policy Nos. 623330283 & 623330284** : Section 45 of the insurance Act 1938 is applicable under the claims. Before discussing the facts of the cases further, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The said section lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose.
- v) It is therefore, incumbent for the insurer to prove not only that the undisclosed / suppressed information is material but that the non-disclosure/suppression was owing to the intention on the part of the DLA to defraud the insurer. In my opinion, the insurer failed in this regard. The entry in the hospital records speaks of not only eight years old epilepsy but also the DLA being free from epileptic attacks except for minor jerks for few seconds four to five times in a day. In other words, for seven years, the epilepsy was inconsequential. It was only in July 1997, the DLA had serious attack of epilepsy

resulting in loss of consciousness. He was treated as in-patient for two days and was discharged with certain medication to be followed thereafter. The discharge was more than two years before the policies under consideration were taken. In the absence of any evidence to the contrary, it should be presumed that the DLA's epilepsy was either cured or controlled to the point of normalcy. The insurer did not produce any evidence of hospitalization and /or treatment for attacks of epilepsy for the period between July 1997 and the dates on which the policies under consideration were issued in the year 2000. If the DLA did not disclose epilepsy, either he did not have attacks serious enough to alert him to the danger or he had attacks too mild to persuade him to report them as disease. In this context, it is seen that the DLA did not avail himself any medical leave. He apparently attended to his job regularly. These facts imply that the DLA did not suffer significant attacks of epilepsy. It should be noted that if second part of Section 45 is attracted, as is for the two policies under consideration, for repudiation of claim, pointing out mere suppression of material facts is not sufficient. Intention to commit fraud through such suppression is to be proved ,beyond all doubt. And that was not done by the insurer.

- vi) Another factor favouring the DLA, insurer had already considered and settled claims under two other policies taken in 1996 and 1997 for Sum Assured of Rs. 75000 and Rs. 25000 each. Having considered these two claims, the insurer is not justified in repudiating / rejecting claims under these two policies, which were in dispute.
- vii) Having regard to the overall circumstances of the case, I without hesitation, hold that the repudiation of the claim by the insurer is unreasonable and unjust especially when the insurer could not prove fraudulent intent on the part of the life assured beyond doubt. I, therefore, direct the insurer to settle the claims under these two policies.
- viii) **Policy No. 621911827** : For this policy, Sec. 45 of the Insurance Act, 1938 is not applicable under the claim. The implication is that the insurer need not establish fraudulent intent on the part of the life assured. As the contract of insurance being a contract of uberrima fide (utmost good faith), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant to the insurer to take into account while deciding whether the proposal for insurance should be accepted or not or should be accepted subject to certain conditions. While making a disclosure of the relevant facts, the duty of the insured to state them truly and correctly be watered down.
- ix) It is also pertinent to note that if two years have not been elapsed from the date of acceptance of the insurance policy / commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature; and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance.
- x) The insurer in the case repudiated the claim invoking the provisions of the first part of Section 45 of the Insurance Act. 1938. In other words, they have not only proved palpably false but also inaccurate, incorrect and misstatement of facts by the life assured at the time of executing the proposal for insurance. Therefore, the policy is justifiably declared null and void. The decision of LIC, therefore, in repudiating the claim on the basis of the available medical evidence is legal, correct, proper and justified and does not call for my interference with their decision.
- xi) In the aforesaid circumstances, the complaint fails and is, therefore, dismissed as devoid of any merit.

In the result, the complaint is allowed under Policy Nos. 623330283 and 623330284 and dismissed under policy Nos. 621911827.

Hyderabad Ombudsman Centre

Case No. L / 21 - 001 - 0267 - 2004 - 05
Smt. G. S. Sudha
Vs.
Life Insurance Corporation of India

Award Dated 18.2.2005

Facts of The Case : Shri K. V. Raghavendra Rao, S/o late D.Venkanna, working as Assistant in United India Insurance Company Limited and a resident of Bangalore took three life insurance policies from City Branch -1 of LIC of India, under Bangalore Division. The life assured died on 16.05.2003. The cause of death was reported to be **right parieto occipital infarction with left hemiplegia**. Smt. G.S. Sudha, who is the nominee and complainant under the policies, lodged a claim with the LIC. The LIC repudiated her claims on 31.01.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal forms. It was also alleged by the LIC that the life assured, was not keeping in good health and was under treatment even before he proposed for the insurance, policies. It was also alleged by the LIC that the life assured also availed leave on sick grounds prior to taking the policies. He, however, did not disclose these facts in the proposals. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policies, the claims were repudiated by LIC.

Decision : I heard the contentions of both side and also perused all the documents placed before me.

- i) Shri K.V. Raghavendra Rao, S/o late D. Venkanna, working as Assistant in United India Insurance Company Limited and resident of Bangalore took three life insurance policies in 12/2000, 02/2002 and 07/2002 under Non-medical Scheme. The life assured died on 16.05.2003. The cause of death was reported to be "**right parieto occipital venous infarction with left hemiplegia**". The duration of all the claims was between 2 to 3 years. Since they were early claims, they arranged for investigation of the claim.
- ii) LIC repudiated the claims as the life assured, prior to taking the insurance policies, was not in good health and was under treatment. It was also alleged by the insurer that the life assured availed not only medical leave but also medical reimbursements for his admissions and treatments in hospital prior to taking the policies;

Policy No. 612698629 : Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act 1938 as the second part of the section is attracted for this policy. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other documents leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The said provision lays down these conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose 2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which is was material to disclose.

- iii) In support of their repudiation action, LIC obtained treatment particulars from Shekhar Hospital, Bangalore. According to the discharge summary of the hospital, the life assured was first admitted there on **25.08.2000** vide Reg. No. 771 and discharged on **04.09.2000**. The final diagnosis arrived by the hospital authorities was "**Acute renal**

failure with left lower lobe-Pneumonitis in early ARDS with essential hypertension and acute severe asthma". It was reported in the discharge summary of the hospital that the insured was catheterized and that his condition was satisfactory. He was advised for **bronchoscopy** on OPD basis of take regular treatment. This admission and treatment thereto was prior to taking all the policies.

- iv) The life assured was again admitted in the hospital on 10.03.2002 and discharged on 16.03.2002. The diagnosis arrived by the authorities was "**COPD-(R) Spontaneous pneumothorax and ? (L) Pulmonary tuberculosis.** It was reported in the hospital record that the life assured was a known **asthmatic since 10 years; h/o alcohol consumption since one year.**
- v) Finally, the life assured was admitted in the above hospital on 15.05.2003 and he expired in the hospital on 16.05.2003. The cause of death was reported as **(R) parieto occipital venous infarction with left Hemiplegia.**
- vi) The employer, vide his letter dated 16.06.2003 addressed to LIC authorities confirmed that the life assured availed himself of medical reimbursements of Rs. 38000.00 for admission in the hospital during 08/2000 to 19/2000; Rs. 27708.00 for admission in 03/2002 and Rs. 11929.00 for admission in 08/2002. According to the employer, the insured also availed leave on medical grounds on several occasions prior to taking the policies.
- vii) Since 2nd part of Sec. 45 is applicable under the claim, LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- viii) The insurer is right in setting that the DLA did not disclose the facts relating to hospitalization and treatment before he took the policy under consideration. But they are not justified to jump to the conclusion that he fraudulently suppressed these facts. As his condition was found to be satisfactory when he was discharged from the hospital on 04.07.2000, he could be under the impression that he was healthy and did not have to report any thing adverse in the proposal form when he took the policy under consideration.
- ix) The only contention of the insurer appears to be only violation of the principle of utmost good faith. But this is not sufficient. And they have not succeeded in proving that the failure to disclose the facts was on account of DLA's fraudulent motive. Hence, the repudiation action of the insurer under this policy is not proper, legal and correct and justified. I, therefore, direct the insurer to settle the claim and the complaint is allowed under this policy.
- x) **Policy Nos. 612701411 & 612865495** : Under these two policies 1st part of Sec. 45 is applicable. The policies were also governed under warranty clause. The disease with which the life assured was suffering and the treatments for the same were all well within his knowledge, especially as these occurred just before the date of the proposals. These facts were obviously very green in his memory and the insured should have disclosed all these material facts relating to his health condition while answering the relevant questions in the proposal forms for insurance. The insured was working in an insurance office and he must know the implications of non-disclosure of material facts. Instead, he suppressed the material facts with malafide intention for getting the insurance policies.
- xi) As the contract of insurance being a contract of uberrima fide, there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of all material facts which may be relevant for the insurer to take into account while deciding whether the proposal for insurance policy should be accepted or not or should be accepted subject to certain conditions. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted. It is also a well-establish principle of law that it is the duty of the

insured to make a full disclosure of all the material facts to the insurer even without they asked for.

xii) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policies from the insurer and he suppressed the material facts to the insurer.

xiii) Sec.45 of the Insurance act, 1938 is not applicable under the last two claims. It is also pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of the material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance.

It is profitable to note that in the light of the medical evidence produced by the insurer as referred to above positively proved that the insured suppressed the truth and suggested falsehood as embodied in the maxim "suppression veri; suggestio false".

xiv) Therefore, for the reasons as mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of these two claims on the ground that the insured had deliberately suppressed the material facts relating to his health condition at the time of effecting the insurance policies is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed under these two policies.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0429 - 2004 - 05
Smt. G. Rajamma
Vs.
Life Insurance Corporation of India

Award Dated 5.3.2005

Background : One Shri Gundulur Gopal, S/o late Chenganna, working as SI in APSP 8th BN, Kondapur and a resident of R.R. District took a Jeevan Mitra Double Cover Endowment Assurance Policy in 01/1995 for a Sum Assured of Rs. 49000/- from City Branch - 2 of LIC of India, Hyderabad Division. The policy lapsed due to non-payment of premiums due from 09/1999. Later the life assured got the policy revived on 19.11.2001 by paying the arrears of premiums and also submitted the health requirements, as advised by the Insurer. The insured died on 06.08.2003 and the cause of death was reported to be heart attack. Smt. G. Rajamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. But her claim was repudiated by the LIC of India, citing the reason that the life assured, while reviving the policy on 19.11.2001, gave false answers to certain questions relating to his health in the declaration of good health from. The insurer also alleged that they held indisputable proof to show that even before he revived the policy, he suffered from Coronary Artery Disease (CAD) and took treatment for the same. It was also stated by the Insurer that the life assured availed leave on medical grounds for 190 days during the period 17.11.1999 to 24.05.2000. The life assured, however, did not disclose these material facts at the time of reviving the insurance policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of reviving his insurance policy, the insurer repudiated the claim and offered a sum of Rs. 31503.00, being the paid-up value along with accrued bonus under the policy.

Decision : I have carefully perused the papers including the written submission of the complainant, placed before me and heard the arguments presented by both sides.

i) The life assured late Gundulur Gopal, S/o late Chenganna working as SI, APSP 8th Battalion, Kondapur and a resident of Ranga Reddy District took a Jeevan Mitra Double

Cover Endowment Assurance Policy in 12/1994 for a Sum Assured of Rs. 49000. Premiums under the policy were paid upto 06/1999 and premiums due from 09/1999 were not paid. The policy remained in a lapsed condition. The insured got the policy revived on 19.11.2001 by paying the arrears of premiums and also submitted health requirements, as advised by the LIC. The life assured died on 06.08.2003. The cause of death was reported to be heart attack. The duration of the claim from revival date was just 1 year and 8 months. Hence, the insurer arranged investigation into the bonafides of the claim;

- ii) The above claim was repudiated by LIC on the ground that the life assured, while reviving his lapsed policy, fraudulently suppressed material facts relating to his health as he was reported to be a **heart patient** and suffered from **Coronary Artery Disease (CAD) During the year 1999** and took treatment for the same and availed **leave on medical grounds** during the period **17.11.1999 to 24.05.2000**, even before he revived the insurance policy;
- iii) Section 45 of the Insurance Act 1938 is applicable under the claim. Before discussing the facts of the case further, it is useful to refer to the provisions contained in Section 45 of the insurance Act, 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a facts which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The said section lays down three conditions for the applicability of the Second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;
- iv) In support of repudiation action, the insurer obtained treatment particulars in the form of Case records from Gandhi Hospital, Hyderabad. According to the Case Sheet and treatment particulars obtained by the insurer in their claim forms B/B 1, the life assured was admitted there on 25.07.2003 vide admission no. 22912/2003 and expired in the hospital itself on 06.08.2003. The primary cause of death was "**Coronary Artery Disease (CAD) with Ischemic Cardiomyopathy with Cerebro Vascular Accident (CVA) with right Hemiplegia leads to Cardio-respiratory arrest**". It was reported by the hospital authorities in the hospital records that "**Old Coronary Artery Disease (CAD) with Ischemic Cartdiomyopathy with poor Left ventricle function (LVF) with Cerebro Vascular Accdient (CVA) with right Hemiplegia**". The duration of illness was reported as **four years**;
- v) According to the information obtained by the insurer in their claim form E from the employer of the life assured, the insured availed leave on sick grounds for 190 days during the period 17.11.1999 to 24.05.2000;
- vi) According to Mosby's Medical Dictionary 2003 (Page No. 289), the implications of Coronary artery Disease (CAD) are "any one of the abnormal conditions that may affect the arteries of the heart and produce various pathologic effects, especially reduced flow of oxygen and nutrients to the myocardium. Any of the Coronary Artery Diseases, as coronary atherosclerosis, coronary arteritis, or fibromuscular hyperplasia of the coronary arteries, may produce the common characteristic symptom of angina pectoris, which, however, may also be associated with cardiomyopathy;

- vii) According to the same dictionary (Page No. 190), the implications of Cardiomyopathy “are any disease that affects the myocardium, as alcoholic cardiomyopathy”;
- viii) According to the same dictionary (Page No. 214), the implications of Cerebrovascular Accident (CVA) are “an abnormal condition of the blood vessels of the brain characterized by occlusion by an embolus or cerebrovascular hemorrhage, resultings in ischemia of the brain tissues normally perfused by the damaged vessels. The sequelae of a cerebrovascular accident depend on the location and extent of ischemia. Paralysis, weakness, speech defect, aphasia or death my occur. Symptoms remit somewhat after the first few days as brain swelling subsides. Physical therapy and speech therapy may restore much lost function”;
- ix) It is a settled law that the contract of insurance is a contract of utmost good faith. Therefore, it is incumbent on the insured to disclose all the material facts to the insurer to enable him to assess the risk in the right perspective. In the instant case, the insured violated the principle of utmost good faith;
- x) The hospital records clearly established the facts that the life assured was not enjoying good health at the time of reviving the policy. In the instant case, there is also nexus between the material facts suppressed and the cause of death of the life assured on 06.08.2003;
- xi) In the circumstance of the case, therefore, the fraudulent suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. From the foregoing facts of the case, it became evident that the life assured was not in good health and he had conveniently suppressed the material facts of his ill health intentionally to defraud the insurer;
- xii) It is a settled law that the contract of insurance is based on good faith. The information as to the insured having suffered from heart ailments as mentioned above and as confirmed by the hospital records before revival of the policy was established beyond doubt on the basis of the medical evidences submitted by the insurer. It is for the insurer to give correct information about his health while executing the declaration of good health form for revival of the policy, which he did not disclose at that time. This ground of incorrect information and false statement regarding his health make the revival of the policy as null and void;
- xiii) Therefore, I have to hold for the reasons as aforesaid and also in the light of the medical evidences available on record as referred above, that the repudiation of the claim by setting aside the revival, by the insurer on the ground that the insured had fraudulently suppressed material facts relating to his health at the time of revival of the insurance policy has to be upheld on law as well as on facts and does not warrant any interference at my hands;
- xiv) The complaint is accordingly dismissed. In the instant case, it is observed that the insured had already offered a sum of Rs. 31503.00 being paid up value along with accrued bonus. In view of the facts that the policy had run for about 8 years; and in view of the fact that the deceased life assured had left two minor children whose educational needs had to be taken care by the complainant, I direct the insurer to refund the premiums paid for the insured on 19.11.2001 at the time of revival of the policy on humanitarian grounds. This amount is over and above the amount already offered by the insurer.

In the result the complaint is closed subject to point (xiv) above.

Hyderabad Ombudsman Centre
Case No. L / 21- 001- 0394 - 2004 - 05
Shri R. Chenna Reddy

Vs.
Life Insurance Corporation of India

Award Dated 16.3.2005

Facts of the Case : One Ms. Rangari Kisthamma, D/o late Shri Rangari Bhoomreddy, doing cultivation and a resident of Medak District took a Life Insurance Policy under Non-medical Scheme from City Branch-II of LIC of India, under Hyderabad Division. The life assured died on 25.04.2003. The cause of death was reported to be loose motions. Shri Rangari Chenna Reddy, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before she proposed for the above policy, she suffered from cervix cancer and took treatment from a doctor. It was also alleged by the insurer that the life assured was mentally instable person since the insured was aged 10 years and did not possess any income. She, however, did not disclose these facts in the proposal. Instead, she gave false answers to the relevant questions in the proposal form. Finding the life assured to guilty of deliberate suppression of material facts relating to her health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of the insurer and also perused all the documents including the written submissions of both the parties :

- i) The life assured took an Endowment Assurance Policy in 10/2002 for a Sum Assured of Rs. 100000. The life assured was a tailor and was also doing cultivation. She was a resident of Medak District and unmarried. She died on 25.04.2003. The durations of the claim from risk date was just **6 months** and hence with insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to her health prior to taking the insurance policy. According to the insurer, the life assured, three years before she proposed the policy, suffered from cervix cancer and took treatment from a doctor. It was also alleged by the insurer that the life assured was mentally unstable since 10 years of age and had no income.
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Dr. Syed Aziz Ahmed of Sangareddy. According to the letter/medical certificate date 29.08.2003 issued by this doctor, he knew the life assured since five years; the that insured suffered from cervix cancer, and that he advised her 3 years back, to go to Hyderabad for further investigation and treatment.
- iv) Surprisingly the doctor had issued another letter-dated 29.08.2003 wherein he mentioned the name of the patient (insured) as R. Anjamma but, for reasons well known to him, corrected the name as Kishtamma. Once again the same doctor had issued another letter dated 26.09.2003 mentioning the name as Anjamma.
- v) During the course of investigation it was contended by the complainant that Dr. Aziz Ahmed was their family doctor since 5 years. If it was so, it is quite surprising as to how this doctor issued several letters/certificates changing the names.
- vi) The Complainant contended that the policy was issued under medical scheme. But the insurer issued the policy under on-medical Scheme (without undergoing medical examination by authorized medical examiner of LIC), as per the underwriting norms of the insurer.
- vii) The insurer totally relied on the medical certificate issued by Dr. Syed Aziz Ahmed and repudiated the claim. The certificate of this doctor is silent with regard to diagnosis of the disease for cervix cancer and other treatment particulars. As could be seen from the certificates, the doctor is not firm in his statement and it appears that he is in the habit of issuing such certificates suiting the convenience of the persons. To meet ends of

justice and also give fair opportunity to both sides, I desire the case to be probed further in its totality by a senior officer of LIC.

- viii) In view of the above facts, I direct the insurer to cause through investigation of the claim by a responsible officer of their Zonal Officer/Divisional Office and take appropriate decision at their end.
- ix) In the result the complaint is treated as allowed for statistical purpose.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0376 - 2004 - 05
Smt. S. Sudha Ramakrishna
Vs.
Life Insurance Corporation of India

Award Dated 17.3.2005

Facts of the Case : One Shri S.R. Ramakrishna, S/o late Shri K. Ramu working as attender in Indian Institute of Science and resident of Bangalore in Karnataka, took a Life Insurance Policy from Yeshwantapur Branch of LIC of India, under Bangalore Division. The life assured died on 05.02.2003. The cause of death was reported to be Pontine Hemorrhage Severe Hypertension. Smt. S. Sudha Ramakrishna, who is the nominee and complainant under the policy, lodged a claim, with the LIC. The LIC repudiated her claim on 18.12.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from Hypertension and took treatment for the same. He however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard that contentions of both sides and also perused all the documents including the written submissions of both the parties :

- i) The life assured took an Endowment Assurance Policy in 02/2002 for a Sum Assured of Rs. 80000. The life assured was working as attender in Indian Institute of Science, Bangalore. He died on 05.02.2003. The cause of death was reported to be Pontine Hemorrhage Severe Hypertension. The Duration of the claim from risk date was just one year and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer, the life assured suffered from hypertension and took treatment in a hospital, prior to taking the insurance policy.
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Health Centre of Indian Institute of Science, Bangalore. According to the treatment particulars obtained by the insurer in the form of hospital records from the above Health Centre, the insured consulted them during the period 05/2000 to 08/2000 and was reported to be a known HTN on Rx. Uncontrolled. The BP readings during the period were recorded as 220/130; 160/120; 180/130; 220/140. This was clearly prior to taking the insurance policy.
- iv) According to the treatment particulars obtained by the insurer in their claim forms B/B1 from M.S. Ramaiah Medical Teaching Hospital, Bangalore, the life assured was admitted there on 31.01.2003 and expired in the hospital itself while undergoing treatment on 05.02.2003. The cause of death was reported as "Pontine Hemorrhage" and the duration of hypertension was reported as one year ago.
- v) Both the above treatment established the facts that the life assured was suffering from severe hypertension and was on treatment. even prior to taking the insurance policy.

This was, therefore, well within the knowledge of the life assured and he ought to have informed the same to the insurer while executing the necessary proposal for insurance. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for the policy.

- vi) The complainant in the claim form A reported the cause of death as hypertension. There is, therefore, clear nexus between the material facts suppressed and the ultimate cause of death, as reported by the hospital authority
- vii) Sec. 45. of the Insurance Act. 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/ commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just one year only and the premiums were also received for one year only.
- viii) As the contract of insurance being a contract of utmost good faith (ubberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted.
- ix) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0341 - 2004 - 05
Smt. B. Lalitha
Vs.
Life Insurance Corporation of India

Award Dated 17.3.2005

Background : One Shri B. Jayanna, S/o Shri Venkatasubbaiah, doing business and a resident of Tumkur District in Karnataka took an Endowment Assurance Policy in 05/2001 for a sum assured of Rs. 50000/- from Pavagada Branch of LIC of India, under Bangalore Division. The policy lapsed due to non- payment of premiums due from 11/2001. Later the life assured got the policy revived on 21.03.2003 by paying the arrears of premiums and also submitted declaration of good health form, as advised by the Insurer. The insured died on 18.11.2003 and the cause of death was reported to be heart attack. Smt. B. Lalitha, who is the nominee and complainant under the policy, lodged a claim with the LIC. But her claim was repudiated by the LIC of India, citing the reason that the life assured, while reviving the policy on 21.03.2003, gave false answers to certain questions relating to his health in the declaration of good health form. The insurer also alleged that they held indisputable proof to show that even before he revived the policy, he was suffering from kidney problem and was undergoing dialysis. The life assured, however, did not disclose these material facts at the time of reviving the insurance policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of reviving his insurance policy, the insurer repudiated the claim.

Decision : I have carefully perused the papers including the written submissions of the complainant placed before me and heard the arguments presented by both sides.

- i) The life assured late B. Jayanna, doing business (as per the information furnished in the proposal) and a resident of Tumkur District in Karnataka took an Endowment Assurance policy in 05/2001 for a Sum Assured of Rs. 50000. The insured paid only the first instalment premium. Premiums due from 11/2001 were not paid. The policy remained in a lapsed condition. The insured got the policy revived on 21.03.2003 by paying the arrears of premiums and also submitted Declaration of Good Health form, as required by the LIC. The life assured died on 18.11.2003. The cause of death was reported to be heart attack. The duration of the claim from revival date was just 8 months. Hence, the insurer arranged for investigation into the bonafides of the claim.
- ii) The above claim was repudiated by LIC on the ground that the life assured, while reviving his lapsed policy, fraudulently suppressed material facts relating to his health as he was **suffering from kidney problem and was undergoing dialysis, even before he revived the insurance policy.**
- iii) In support of repudiation action, the insurer obtained treatment particulars in the form of hospital records from Sharada Dhanvanthari Medical Centre & Sharada Dhanvanthari Haemodialysis Centre, Bangalore. According to the records of the hospital obtained by the insurer, the life assured consulted them on 07.02.2003 and had Saline drain-Bi-carb-dialysis for 4 1/2 hours and was advised to report to them on 11.02.2003. This consultation and the treatment thereto were prior of the policy. The insured consulted them again on 27.10.2003 and was Saline drain -Bi-carb-dialysis and was advised to report to them once again on 05.11.2003. This established the fact that the life assured had dialysis prior to revival and also after of the policy.
- iv) According to Mosby's Medical Dictionary 2003 (Page No. 521), the implications of hemodialysis are "a procedure in which impurities or wastes are removed from the blood, used in treating renal insufficiency and various toxic conditions. The patient's blood is shunted from the body through a machine for diffusion and ultrafiltration and then returned to the patient's circulation. Hemodialysis requires access to the patient's bloodstream, a mechanism for the transport of the blood to and from the dialyzer and a dialyzer".
- v) The revival was considered by the LIC under Non-medical Scheme, without undergoing any medical examination by authorised examiner of LIC. Hence, more responsibility was cast on the insured to disclose all the material facts to the insurer for assessing the risk in the right perspective. Although the life assured had hemodialysis prior to revival as confirmed by the above hospital records, he conveniently suppressed them from the insurer and thereby induced the insurer for accepting revival of his lapsed policy.
- vi) It is a settled law that the contract of insurance is a contract of utmost good faith. Therefore, it is incumbent on the insured to disclose all the material facts to the insurer to enable him to assess the risk in the right perspective. In the instant case, the insured violated the principle of utmost good faith.
- vii) The hospital records clearly establish the facts that the life assured was not enjoying good health at the time of reviving the policy.
- viii) In the circumstances of the case, therefore, the fraudulent suppression of material facts by the life assured is very clear. Revival of the insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. From the foregoing facts of the case, it became evident that the life assured was not in good health and he had conveniently suppressed the material facts of his ill health intentionally to defraud the insurer.

- ix) It is a settled law that the contract is based on good faith. The information as to the insured having suffered from renal problems as mentioned above and as confirmed by the hospital records before revival of the policy was established beyond doubt on the basis of the medical evidences submitted by the insurer. It is for the insured to give correct information about his health while executing the declarations of good health form for revival of the policy, which he did not disclose at the time. This ground of incorrect information and false statement regarding his health make the revival of the policy as null and void.
- x) Therefore, I have to hold for the reasons as aforesaid and also in the light of the medical evidences available on record as referred above, that the repudiation of the claim by setting aside the revival, by the insurer on the ground that the insured had fraudulently suppressed material facts relating to his health at the time of revival of the insurance policy has to be upheld on law as well as on facts and does not warrant any interference at my hands.
- xi) For reasons mentioned above, the complaint is accordingly dismissed.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001- 0425 - 2004 - 05
Shri K. B. Rudrappa
Vs.
Life Insurance Corporation of India

Award Dated 18.3.2005

Background : One Smt. Lakshamma, W/o Shri K.B. Rudrappa, doing cultivation and a resident of Chitradurga District in Karnataka took an Endowment Assured Policy from Channagere Branch of LIC of India, under Udupi Division. The life assured died on 13.07.2003. The cause of death was reported to be sudden heart attack. Shri K.B. Rudrappa, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 21.01.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was alleged by the insurer that they held indisputable proof to show that even before she proposed for the above policy, she suffered from hypertension with Ischemic Heart Disease and took treatment in a Primary Health Centre. The life assured, while submitting the proposal for insurance on 29.07.2002 gave false answers to certain questions relating to his health in the proposal form. It was also stated by the insurer that they held indisputable proof to show that even before she proposed for the above insurance policy, she suffered from hypertension and Ischemic Heart Disease and took treatment in a Primary Health Centre. The life assured, however, did not disclose these material facts at the time of taking the insurance policy. Finding the life assured to be guilty of deliberate suppression of material facts relating to her health at the time of taking the insurance policy, the insurer repudiated the claim.

Decision : I heard the contentions of both parties and also perused all the documents including the written submissions of the complainant placed before me.

- i) The life assured late Smt. Lakshamma took an Endowment Assurance Policy in 03/2003 for a Sum Assured of Rs. 20000. She died suddenly on 13.07.2003. The cause of death was reported to be heart attack. The duration of the claim was just 4 months only. Since it was a very early claim, they arranged for investigation into the bonafides of the claims;
- ii) The above claim was repudiated by the insurer on 21.01.2004 on the ground that the life assured had deliberately suppressed material facts relating to his health while executing the proposal for insurance;
- iii) In support of their repudiation, the only evidence obtained by the insurer was treatment particulars in their form no. 5152. According to the treatment particulars obtained by the

insurer in the claim form no. 5152 issued by Dr. Sathish, Primary Health Centre, Malladihalli, the life assured consulted them for hypertension and Ischaemic Heart Disease and took treatment **as out patient only**. The doctor reported the duration as two years. The statement of two years is very much a vague statement, as it is based on memory of the doctor, who did not give other relevant details regarding the consultation, prescription of drugs, tests conducted etc. No supportive particulars were obtained by the insurer. Although the insured was reported to have suffered from hypertension, no readings relating to Blood Pressure were recorded by the doctor. During the course of hearing, the complainant submitted a certificate issued by Dr. S.C. Mallikarjunappa of the same Primary Health Centre wherein the doctor reported that the insured did not take any treatment in the PHC. When the life assured was reported to have suffered from hypertension and ischemic heart disease since two years, the insurer ought to have probed further and secured concrete evidence relating to the treatment particulars. But curiously enough, not even a feeble attempt was made by the insurer to collect evidence relating to the health aspect of the insured prior to taking the insurance policy. Instead, the insurer totally relied on a statement issued by PHC that too as out patient.

- iv) Thus, the evidence relied upon by the insurer is too flimsy to suffice for repudiation of the claim of the complainant;
- v) The DLA was medically examined by authorized medical examiner of LIC and he could not furnish any adverse features about health of DLA and accordingly the policy was issued;
- vi) Sec. 45 of the Insurance Act is not a licence to repudiate a claim picking out holes here and there and according to the whims and fancies of the insurer. There should be an amount of credible, reliable and acceptable evidence to substantiate the repudiation. A mere statement in a claim form issued by a doctor/PHC, relating to out patient treatment, without supporting evidence has no value of its own;
- vii) In this connection, it is also profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies. "In course of time, the Corporation has grown in size and at present, it is one of the largest public sector financial undertakings. The public in general and the crores of policyholders in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and reputation depends on its prompt and efficient service. Therefore, the approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be one of extreme care and caution. It should not be dealt with in a mechanical and routine manner";
- viii) In the present case, the insurer had not lead in any cogent and clear evidence. It is only a futile attempt on the part of the insurer to cash in on documents which fail to substantiate their allegations.
- ix) Having regard to the facts and circumstances of the case, as discussed above and also the manner in which the claim was made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above policy;
- x) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified.

I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complainant is allowed.

Hyderabad Ombudsman Centre

Case No. L / 21- 001- 0437 - 2004 - 05
Smt. Siddagangamma
Vs.
Life Insurance Corporation of India

Award Dated 22.3.2005

Background : One Shri Channabasavaiah, S/o Shri B.S. Mariyappa, an agriculturist and a resident of Tumkur District in Karnataka, took the above life insurance policy from Madhugiri Branch of LIC, under Bangalore-I Division. The mode of payment of premium was Quarterly. The policy was in a lapsed condition due to non-payment of premium due from 03/1999 s. But the life assured died on 11.11.2000. The cause of death was reported to be **Ventricular Septal defect with Infective Hepatitis**. Smt. Siddagangamma, the complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving his lapsed policy, gave false answers to certain questions in the declaration of good health form, submitted by him at the time of reviving his lapsed policy. It was also stated by the LIC that they held indisputable proof, to show that even before he revived his lapsed policy, he was reported to be a known case of congenital heart disease, Situs Solitus, Fallot's tetralogy and took treatment during the period 07/1999 to 11/1999. It was also stated by the LIC that the policy was lapsed state as at the time of death of the insured. He, however, did not disclose these facts in the declaration of good health form. Instead, he gave false answers to the relevant questions in the declaration of good health form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of reviving his lapsed policy, the insurer repudiated the claim by setting aside the revival.

Decision : I heard the contentions of the insurer and perused all the documents, including the written submissions of the complainant, placed before me.

- a) The life assured took a Bima Kiran Insurance Policy in 03/1997 for a Sum Assured of Rs. 1,00,000. The mode of payment of premium was quarterly. The life assured paid premiums upto 12/1998. Premiums under the policy from quarter 03/1999 and onward were not paid. Hence the policy lapsed. The life assured got the policy revived on 04.12.1999, by paying the entire arrears of premium with interest and also submitted declaration of Good Health Form, duly executed by him. Later, the life assured died on 11.11.2002. The duration of the claim from revival was just one year. Since it was a very early claim, the LIC arranged for investigation of the claim.
- b) LIC repudiated the claim by setting aside the revival effected on 04.12.1999, as the life assured had fraudulently suppressed material facts relating to his health prior to revival of the policy. Before death, the premium due under the policy was the Qly. Premium 28.09.2002. According to the policy conditions, a grace period of one month was allowed for payment of this premium. In case if the premium was not paid before the expiry of the grace period, the policy lapses. In the instant case, the Qly. Premium due 28.09.2000 was paid on 11.11.2002, (after expiry of the grace period) at 11.47 a.m. But according to the hospital records the deceased life assured died on 11.11.2000 at 8.30 a.m. Thus the policy was in a lapsed condition as on the date of death since the premium was paid after the death of the deceased life assured.
- c) In support of their repudiation action, they obtained the relevant records from Shri. Jayadeva Institute of Cardiology, Bangalore. According to the records of this Hospital, the life assured consulted them **first on 06.07.1999** and took treatment upto **19.07.1999**. During this period, the insured had undergone several special tests. The insured consulted them with complaints of chest pain 6 months, breathlessness and palpitation. The impressions of 2D Ech cardiography and colour Doppler are **"Congenital Heart Disease; Situs Solitus; Fallot's Tetralogy"** According to the hospital records, the life assured was actually admitted in the hospital on 24.09.1999 and discharged on 13.11.1999 and the final diagnosis arrived by them was CHD-Fallot's

Tetralogy. This admission and the treatment thereto was just **one month before revival of the policy (policy revived on 04.12.1999).**

- d) The life assured was admitted in Victoria Hospital, Bangalore on 08.11.2000 (just before death) with complaints of breathlessness distension of abdomen and legs. The insured died in the hospital itself while undergoing treatment on 11.11.2000. The primary cause of death was reported as **Ventricular Septal Defect with Infective Endocarditis**. The hospital authorities reported the **time of as 8.30 a.m.**
- e) According to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of revival of the policy, they would have called for special medical test and the consideration or otherwise of the life assured for the revival would be dependent on the findings of these reports.
- f) The insured had not disclosed his illness relating to heart, which has a nexus with the cause of his death. There is, therefore, fraudulent suppression of material facts relating to his health condition on the part of the life assured. The life assured after knowing fully well that something untoward might happen had got the policy revived by suppressing the material facts relating to his serious illness thus rendering the revival void.
- g) The policy was revived on 04.12.1999, (discharged from the hospital on 13.11.1999) just 1 month before his admission and treatment in Shri Jayadeva Institute of Cardiology, Bangalore. The facts were obviously very clear in his memory and the insured should have disclosed all these material facts relating to his health condition while answering the relevant questions in the declaration of good health form.
- h) From the foregoing facts of the case, it becomes evident that the life assured was not in good health at the time of revival of the insurance policy from the insurer and he had conveniently suppressed the material facts of her ill health intentionally to defraud the insurer. When the admission and treatments thereto were well within his knowledge, the life assured ought to have disclosed the same to the insurer at the time of revival of the policy. Instead, he suppressed the material facts relating to his health conditions from the insurer so as to induce the insurer to accept the revival without attaching any conditions.
- i) In the circumstances of this case, therefore, the suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. The fraudulent intention is also very clear, in that, the life assured had not disclosed the disease in the personal statement of good health form submitted by her for the purpose of revival of her lapsed policy, although she was very much aware of the same.
- j) Contract of Insurance being a contract of Ubberima fide, there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts, which may be relevant to the insurer to take into account while assessing the risk in the right perspective.
- k) Therefore, I have to hold for the reasons as aforesaid and also in the light of medical evidences available on record and policy conditions as referred to above, the repudiation of the claim, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claims by the insurer does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0333 - 2004 - 05
Smt. B. Padma
Vs.
Life Insurance Corporation of India

Award Dated 23.3.2005

Facts of the case : One Shri Buddharaju Venkata Ramana Raju, S/o late B. Appala Raju, working as driver in APSRTC and doing taxi business and a resident of Vizianagaram took a Life Insurance Policy from Vizianagaram Branch of LIC of India, under Visakhapatnam Division. The life assured died on 14.08.2002. The cause of death was reported to be heart attack. Smt. B. Padma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from Bronchitis and took treatment for the same. It was also alleged by LIC that the life assured was removed from service on 23.12.1993 itself and that his income was not sufficient for insurance. He, However, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decison : I heard the contentions of both sides and also perused all the documents, including the written submissions of the parties :

- i) The life assured took an Endowment Assurance Policy in 03/2002 for a Sum Assured of Rs. 400000. The life assured was reported to be working as driver in APSRTC and doing taxi business and was a resident of Vizianagaram. He died on 14.08.2002. The duration of the claim from risk date was just 4 1/2 month and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health and occupation prior to taking the insurance policy. According to the insurer, the life assured suffered from Bronchitis and took treatment from a doctor, prior to taking the insurance policy. It was also alleged by the insurer that the life assured was not an employe of APSRTC and that he was also alleged by the insurer that the life assured was not an employee of the APSRTC and that he was removed from their services even before the date of proposal and that the insured had no sufficient income to finance the insurance policy.
- iii) In support of their repudiation action, the insurer obtained particulars from Dr. K.A. Naidu of Vizianagaram. According to medical certificate dated 30.11.2002 issued by this doctor, the insured was treated by him three years back for Bronchial Asthma. The doctor also reported that the deceased life assured was admitted in his nursing home on 13.08.2002 and died on 14.08.2002 due to myocardial infarction. The insurer also obtained details of consultations / treatments from Dr. K.A. Naidu in their claim form no. 5152. The doctor reported that he had treated the deceased life assured during 8/1999 to 8/2002. These consultations and the treatments thereto were clearly prior to executing the proposal for insurance by the insured. This also established the facts that the deceased life assured was not enjoying good health at the time of taking the policy.
- iv) According to the information obtained by the insurer in their claim form E from the employer (APSRTC) of the life assured, the insured was reported to have been removed from service on 23.12.1993 itself. Nevertheless, in the proposal form submitted on 30.03.2002. not only it was stated that the insured was an employee of the APSRTC but also the employee registration/ badge number was mentioned. In this context, in the course of hearing, it is stated by the complainant's representative that the form was filed up by the agent, that the agent made a mistake in mentioning employee instead of ex-employee, and that the badge number was collected by the agent himself from the APSRTC. I dismiss the explanation as facile and far-fetched. The insured could not have explained his income without giving false information about his employment. As to income from cycle stand, the representative of the complainant conceded that the

insured did not declare any income to the Income Tax Department and admitted that the so-called receipts given by the municipalities were not available. Thus the insurer could prove that the insured misled them as to his income and ability to tender requisite premium regularly.

- v) The consultation and treatment referred to were prior to taking the insurance policy. They were well within his knowledge and life assured to enable that LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy.
- vi) Sec. 45 of the Insurance Act. 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the case on hand, the insurance policy had run for just 4 months only and the life assured paid just one half-yearly premium.
- vii) As the contract of insurance being a contract of utmost good faith (ubberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted.
- viii) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does not warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L- 21 - 001 - 0380 - 2004 - 05
Smt. Chuttugulla Sujatha
Vs.

Life Insurance Corporation of India

Award Dated 23.3.2005

Facts of the case : One Shri Chuttugulla Yesuratnam, S/o Shri Ch. Veera Swamy, working as Assistant Lineman in A.P. Transco and a resident of East Godavari District, took a Life Insurance Policy under Non-medical Scheme from Amalapuram Branch of LIC of India, under Rajahmundry Division . The life assured died on 11.05.2003. The cause of death was reported to be heart attack. Smt. Ch.Sujatha, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 31.03.2004, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policy, he suffered from **Chronic Coronary Heart Disease with severe hypertension with unstable angina**

and took treatment in a hospital as **in-patient**. It was also alleged by the insurer that the deceased life assured availed **medical reimbursements** under Employee's Medical Benefit Scheme for the treatment during the period **30.11.2001 to**

12.12.2001. He, however, did not disclose these facts in the proposal. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of both the parties :

- i) The life assured took an Endowment Assured Policy in 03/2003 for a Sum Assured of Rs. 75000. The life assured was working as a lineman and was a resident of East Godavari District in Andhra Pradesh. He died on 11.05.2003. The cause of death was reported to be heart attack. The duration of the claim from risk date was just 1 1/2 months and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to his health prior to taking the insurance policy. According to the insurer the life assured suffered from Chronic Coronary Heart Disease, Severe Hypertension with Unstable Angina and took treatment in a hospital as an in-patient. It was also alleged by the insurer that the insured availed reimbursement of medical expenses under Employees' Medical Benefit Scheme for the above treatment, which were prior to taking the insurance policy.
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Swatantra Hospital, Rajahmundry. According to the treatment particulars obtained by the insurer in the form of discharge summary from this hospital, the deceased life assured was admitted in the hospital as in patient on 30.11.2001 vide IP No. 27674 and discharged from the hospital on 15.12.2001. The diagnosis arrived by the authorities was **"Severe Systemic Hypertension; Unstable Angina; SR, LB Dysfunctions and Anterior and Interior Wall Myocardial Infarction"**.
- iv) In support of their repudiation, the insurer also obtained information ;from the employer of the life asured. The employer vide his letter dated 08.12.2001 addressed to the Supreintending Engineer, Rajahmundry reported that the insured availed medical reimbursement for treatment of the above disease.
- v) The complainant during the course of the hearing also did not dispute the the allegations of the insurer regarding his admission and treatment in Swatantra Hospital for treatment of the above disease relating to heart.
- vi) The consultations and treatment referred to above were prior to taking the insurance policy. This also established the fact that the life assured was not enjoying good health at the time of taking the insurance policy. They were well within his knowlege and life assured, therefore, ought to have disclosed them to the insurer while executing the proposal for insurance to enable the LIC to assess the risk in right perspective. Instead, he suppressed the information by not furnishing correct information to the relevant questions in the proposal form and thereby induced the insurer for issue of the policy.
- vii)The policy under dispute was issued by the insurer under Non-medical Scheme, without undergoing medical examination by authorized medical examiner of LIC and there is, therefore more responsibility was cast on the insured to disclose all material facts to the insurer.
- viii) Sec. 45 of the Inurance Act 1938 was not applicable under the claim as the claim was repudiated within two years. It is very much pertinent to note that if two years have not elapsed from the date of acceptance of the insurance policy/commencement of the policy, the insurer is under no obligation to prove that the suppression of material facts having a bearing upon the acceptance of the proposal is fraudulent in nature and it is sufficient for the insurer to prove that there was misstatement or incorrect statement or inaccurate statement of facts in the proposal to rescind the contract of insurance. In the

case on hand, the insurance policy had run for just 1 1/2 months only and the life assured paid just 2 monthly premium.

- ix) As the contract of insurance being a contract of utmost good faith (uberima fide), there must be complete good faith on the part of the insured and the insured is under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal for the insurance policy should be accepted or not. While making a disclosure of relevant facts, the duty of the insured to state them truly and correctly cannot be diluted.
- x) Therefore, I have to hold for the reasons as aforesaid, the repudiation of the claim by the insurer invoking the provisions of 1st part of Sec. 45 of the Insurance Act 1938 on the ground that the insured had deliberately suppressed material facts relating to his health is sustainable on law as well as on facts and the decision of the insurer was legal, correct and proper and does warrant any interference at my hands.

In the aforesaid circumstances, the complaint fails and is dismissed as devoid of any merit.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0349 - 2004 - 05
Smt. Tanniru Lakshamma
Vs.
Life Insurance Corporation of India

Award Dated 24.3.2005

Facts of the case : One Shri Tanniru Chinna Govindu, S/o Shri T. Venkaiah occupation - Mason and a resident of Prakasham District took an Endowment Assurance policy in 09/2000 from Kandukur Branch of LIC of India, under Nellore Division. The life assured died on 11.10.2002. The complainant reported that the insured died at his residence due to **heart attack**. Smt. T. Lakshamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal for the insurance policy, gave false answers to certain questions in the proposal form dated 18.09.2002. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he suffered from renal disorder since two years and took treatment for the same. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decesion : I heard that the contentions of both sides and also perused all the documents placed before me including the written submission of the complainant :

- i) The life assured took an Endowment Assured policy in 09/2000 for a sum assured of Rs. 50000. The life assured was a Mason and was a resident of Prakasham District. He died on 11.10.2002. The cause of death was reported to be Cardio-respiratory arrest - End Stage Renal Disease on maintenance arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground tha the life assured had deliberately suppressed material facts relating to his health while executing the insurance policy in 09/2000. According to the insurer, the life assured suffered from renal disorder and took treatment for the same, even prior to his taking the insurance policy.
- iii) Section 45 of the Insurance Act. 1938 was applicable under the claim as the insurer repudiated the claim after expiry of two years from the date of commencement of the policy. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section contained in

Section 45 of the Insurance Act 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to disclose. The said provision lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose.

- iv) In support of their repudiation, the insurer obtained treatment particulars from Kamineni Hospitals, Hyderabad where the insured was admitted on 16.04.2001 vide in-patient no. 20010400437 and took treatment in the hospital upto 17.04.2001. The life assured was admitted there with complaints of **“fever, vomiting, pedal edema (simultaneously) 5 months back”**. It was reported by the hospital authorities in the discharge summary that the life assured was evaluated in the hospital and was told to have **End Stage Renal Disease (ESRD) and was advised regarding the need for Hemodialysis transplantation**”. The final diagnosis arrived by the hospital the authorities was **“End Stage Renal Disease (ESRD) -on Maintenance Hemodialysis - fluid over load, anaemia (treated)”**. Further, the hospital authorities reported in the discharge summary that the **“Patient was evaluated in Apollo Hospital for backache and was told to have renal disorder and was on treatment for 6 months (3years back)”**.
- v) But it is strange that the insurer could not obtain any case sheet or treatment particulars like details of admissions/consultations and treatment particulars like details of medicines prescribed and any pathological test conducted confirming that the life assured had diabetes. Although the insured was reported to have consulted Apollo Hospital (as per the hospital records of Kamineni Hospitals), no attempt was made by the insurer to obtain the relevant records from them to sustain their repudiation action. These details are very essential to sustain their repudiation action, especially, when the repudiation was done after two years and 2nd part of Section 45 of the Insurance Act. 1938 was applicable. The insurer solely relied upon the history recorded by the hospital authorities and repudiated the claim without obtaining the relevant case records and other documents to strengthen their repudiation.
- vi) The life assured was also medically examined by the panel doctor of LIC who found the life assured to be medically fit for insurance and accordingly, the policy in question was issued. In the instant case, the insured paid premiums for 3 years out of 10 years.
- vii) Since Sec. 45 is applicable under the claim, the onus is on the insurer to establish fraudulent intent on the part of the life assured. The only contention of LIC appears to be violation of the principle of utmost good faith. Fraudulent intent on the part of the insured has not been proved beyond doubt by the insurer with sufficient evidence.
- viii) Having regard to the fact and circumstances of the case as discussed above and also the manner in which the claim made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities and in the absence of any supportive or concrete evidence to the effect that the life assured had fraudulently suppressed material facts relating to his health prior to taking the insurance policy, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above claim. Further, The repudiation action of the insurer did

not fulfill all the three ingredients required for repudiation of a claim under the 2nd part of Section 45 of the Insurance Act. 1938.

- ix) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct proper and justified.,
- x) I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

In the result, the complaint is allowed.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0436 - 2004 - 05
Shri. Suresh S. Naik
Vs.

Life Insurance Corporation of India

Award Dated 30.3.2005

Facts of the case : One Shri Vanamala Ganapathi Nayak, W/o Shri Suresh S. Naik, working as teacher and a resident of Sirsi in Karnataka, took a Life Insurance Policy under Non-medical Scheme from Sirsi Branch of LIC of India, under Dharwad Division. The life assured died on 27.09.2002. The cause of death was reported to be large left middle cerebral artery territory infarct with the features of raised intracranial tension. Shri Suresh S. Naik, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2003. citing the reason that the life assured, while proposing for insurance gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that even before she proposed for the above policy, she suffered from **diabetes mellitus** and took treatment for the same. Further, the insured also availed leave on sick ground for 52 days during 12.07.1999 to 22.08.1999 and 31.08.1999 to 09.09.1999. She, however, did not disclose these facts in the proposal. Instead, she gave false answers to the relevant questions in the proposal form. Finding the life assured to be guilty of deliberate suppression of material facts relating to her health at the time of taking of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions fo both sides and also perused all the documents including the written submissions of both the parties :

- i) The life assured took Money Back Policy in 11/2001 for a Sum Assured of Rs. 50000. The life assured was working as teacher and was a resident of Sirsi District in Karnataka. She died on 27.09.2002. The duration of the claim from risk date was just 10 months and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had suppressed material facts relating to her health prior to taking the insurance policy. According to the insurer, the life assured suffered from diabetes mellitus and took treatment from a doctor, prior to taking the insurance policy. It was also alleged by the insurer that the life assured availed leave on sick ground for 52 days, prior to taking the insurance policy.
- iii) In support of their repudiation action, the insurer obtained treatment particulars from Kasturba medical College Hospital, Manipal. According to the treatment particulars obtained by them from this hospital (in their claim form B/B1)", the insured was admitted there on 22.09.2002 with complaints of right sides weakness and inability to talk since the morning of 22.09.2002 (day of admission). The diagnosis arrived by the hospital authorities was "(1) Right sides hemiplegia with ^(R) Upper Motor Neurome Facial Palsy with ADMASIA and (2) Diabetes Mellitus. The authorities also recorded that the life assured was a known diabetic for about one year. Further the insurer also obtained

treatment particulars from Dr. Mahesh N. Hegde who also reported that diabetes Mellitus co-existed with CVA.

- iv) On careful consideration, I am afraid the repudiation cannot be sustained. Against Question No. 7 (b) of claim form B1 issued by the hospital, the hospital authorities reported that "diabetes - on irregular treatment - details not available". The statement about one year is a vague statement and the insurer and the history was reported to the hospital doctor by an unspecified relative. The relative apparently did not give the basis for the duration (of one year). And the insurer failed to obtain treatment particulars relating to diabetes although the insured was reported to be diabetic.
- v) Further, the primary cause of death was "large left middle cerebral artery territory infarct with features of raised intracranial tension". It would be pertinent to mention that the insurer could not prove that diabetic mellitus had a real nexus with the cause of death of the life assured. If there was a nexus, then the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts before insurance Ombudsman to drive home its contentions. Even when the insured did not disclose a particular fact relating to his health, the insurer is required to show that such fact has nexus with cause of death. I understand that the cause of death in this case is not invariably related to diabetes mellitus and that it can happen to anybody at any age with or without a preexisting diabetes mellitus in his/her body.
- vi) It is also pertinent to mention here that the insured did not gain any advantage for himself vis-a-vis other policy holders as it was not the policy of the insurer to deny insurance policies to people who suffered from diabetes.
- vii) Having regard to the facts and circumstances as discussed above, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the aforesaid policy.
- viii) Therefore, for the reasons mentioned above, I hold that the repudiation of the claim of the complainant under the aforesaid policy by the insurer is not legal, proper and correct and hence I direct the Corporation to settle the claim for the Sum Assured under the policy.

In the result, the complaint is allowed for Sum Assured under the policy.

Hyderabad Ombudsman Centre
Case No. L / 21 - 001 - 0369 - 2004 - 05
Smt. P. Rama Devi
Vs.
Life Insurance Corporation of India

Award Dated 30.3.2005

Facts of the case : One Shri Potturi Subba Rao, S/o Shri Potturi Venkateswarlu doing rice business and a resident of Prakasham District took an Endowment Assurance Policy in 08/1999 from Ongole Branch of LIC of India, under Nellore Division. The life assured died on 29.03.2002. The cause of death was reported to be **cardiac arrest-severe renal failure**. Smt. P. Ramadevi, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the assured, while executing the proposal for the insurance policy, gave false answers to certain questions in the proposal form dated 07.08.1999. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he suffered from diabetes mellitus since 30 year and had diabetic gangrene of right foot and took treatment for the same. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents placed before me :

- i) The life assured took an Endowment Assurance Policy in 08/1999 for a sum assured of Rs. 50000. The life assured was doing rice business and was a resident of Prakasham District. He died on 29.03.2002. The cause of death was reported to be heart attack. The duration of the claim from risk date was 2 years and 7 months (between 2 to 3 months) and hence the insurer arranged for investigation into the bonafides of the claim.
- ii) The insurer repudiated the claim on the ground that the life assured had deliberately suppressed material facts relating to his health while executing the insurance policy in 08/1999. According to the insurer, the life assured suffered from diabetes mellitus for the last 30 years and had diabetic gangrene of right foot and was taking treatment for the same, prior to taking the insurance policy.
- iii) Section 45 of the "Insurance Act 1938 was applicable under the the claim as the insurer repudiated the claim after expiry of two years from the date of commencement of the policy. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance, Act 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other document leading to the issuance policy was on a material matter or the insured suppressed a facts which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statment was false, or that the insured suppressed facts, which it was material to disclose. The said provisions lays down three conditions for the applicability of the second part of Section45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made have by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose.
- iv) In support of their repudiation, the insurer obtained treatment particulars from Bollineni Super Speciality Hospital, Nellore where the insured was admitted on 19.03.2002 vide in-patient no. AO 8496 and died in the hospital itself on 29.03.2002. The life assured was admitted there with complaints of "severe breathlessness, distension of abdomen and referred from Dr. Sathyanarayana Murthy, Diabetologist of Nellore for management of diabetic nephropathy; known h/o of diabetes mellitus". The past h/o recorded in the case sheet was "had diabetes millitus for the last 30 years and was on human insulin, for 10 + 10 u/daily". Further, according to the hospital records, the insured also had surgery "Bk amputation right on 21.03.2002". The case records also indicated as on ventilator - (1) diabetic nephropathy - severe renal failure (2) diabetic neuropathy; (3) Diabetic - PVD-left forefoot amputated right partial forefoot amp. (Gangrene). The primary cause of death recorded was Cardiac arrest-several renal failure.
- v) But it is strange that the insurer could not obtain any case sheet or treatment particulars like details of admissions/consultations and treatment particulars like details of medicines prescribed and of pathological tests conducted confirming that the life assured had diabetes prior to taking the policy. These details are very essential to sustain their repudiation action, especially, when the repudiation was done after two years and 2nd part of Section 45 of the Insurance Act 1938 was applicable. According to the case records of Bollineni Hosptial, Dr. Sathynarayana Murthy of Nellore referred the life assured to the hospital for management of diabetic nephropathy. But no enquiries worth mentioning appears to have been made by the insurer with this doctor to obtain treatment particulars to substantiate their repudiation. The insurer **solely relied upon**

the history recorded by the hospital authorities and repudiated the claim without obtaining the relevant case records and other documents to strengthen their repudiation,

- vi) It is also to be noted here that the insurer had already settled claims under three policies taken in 1974, 1984 and 1999. In facts, the 3rd policy was taken by the life assured in 03/1999 for which the duration was just 3 years. After all, the grounds for repudiation of the claim under dispute also hold good for these three policies. Therefore, it is not at all justified to repudiate/reject claim under the present policy.
- vii) The life assured was also medically examined by the panel doctor of LIC who found the life assured to be medically fit for insurance and accordingly, the policy in question was issued. In the instant case, the insured paid premiums for 3 years out of 10 years.
- viii) Since Sec. 45 is applicable under the claim, the onus is on the insurer to establish fraudulent intent on the part of the life assured. The only contention of LIC appears to be violation of the principle of utmost good faith. Fraudulent intent on the part of the insured has not been proved beyond doubt by the insurer with sufficient evidence.
- ix) Having regard to the facts and circumstances of the case as discussed above and also the manner in which the claim made by the complainant under the aforesaid insurance policy was dealt with by the insurer without taking note of the ground realities and in the absence of any supportive or/concrete evidence to the effect that the life assured had fraudulently suppressed material facts relating to his health prior to taking the insurance policy and in view of the facts that the repudiation action of the insurer did not fulfill all the three ingredients required under 2nd part of Sec. 45 of the Insurance Act 1938, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above policy. Further, the repudiation action of the insurer did not fulfill all the three ingredients required for repudiation of a claim under the 2nd part of Section 45 of the insurance Act. 1938.
- x) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified.
- xi) I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

In the result, the complaint is allowed.

Hydrabad Ombudsman Centre

Case No. L / 21 - 001 - 0329

Shri T. Sunil Kumar

Vs

Life Insurance Corporation of India

Award dated 31.03.05

Background : One Smt. Rohini, W/o Shri T. Sunil Kumar, housewife and a resident of Mudhole in Karnataka took a Jeevan Rekha Life Insurance Policy in 01/2003 for a Sum Assured of Rs. 500000 from Yadgir Branch of LIC of India, under Raichur Division. She died on 14.09.2003. The cause of death was reported to be **Pregnancy induced hypertension with hepatic renal failure**. Shri T. Sunil Kumar, the complainant and nominee under the policy lodged a claim with the LIC. But the claim was repudiated by the LIC citing the reason that the life assured while taking the policy, gave false answers to certain questions in the proposal form. It was also alleged by the insurer that they held indisputable proof to show that even before she proposed for insurance, the life assured was pregnant and did not furnish the correct date of menstruation. Finding the life assured to be guilty of deliberate suppression of material facts relating to her health at the time of taking the insurance policy, the insurer repudiated the claim.

Decision : I heard the contentions of both sides and also perused all the documents including the written submissions of the complainant placed before me.

- i) The life assured took a Jeevan Rekha Life Insurance Policy in 01/2003 for a Sum Assured of Rs. 500000. The life assured was a housewife and she died on 14.09.2003. The cause of death was reported to be Pregnancy induced hypertension with hepatic renal failure and the secondary cause was Septicemia. The duration of the claim was just 8 months only. Since it was an early claim, the insurer arranged for investigation 'into the bonafides of the claim.
- ii) Their investigations revealed that the life assured was pregnant at the time of taking the insurance policy and that the insured did not furnish the correct date of last menstruation. Since the life assured did not furnish correct information relating to her health, which was very much essential for considering the insurance policy, the insurer repudiated the claim.
- iii) In support of their repudiation, the insurer obtained information from Ultra Diagnostics, Secunderabad where the insured underwent ultra sound of gravid uterus. As per the report-dated 01.09.2003 of Ultra Diagnostics, the last menstruation date was recorded as 25.12.2002 and the expected date of delivery was reported as 23.09.2003. But according to the Ante Natal Card dated 25.08.2003 issued by Dr. Shbhashini S. Akhnoor of Secunderabad, the last menstruation date was mentioned as 18.12.2002 and the executed date of the delivery was reported as 25.09.2003.
- iv) According to the treatment particulars obtained by the insurer in their claim forms B/B1 from Mahavir Hospital, Hyderabad, the deceased life assured was admitted there on 02.09.2003 with complaints of jaundice since 2 days and she expired in the hospital itself while undergoing treatment on 14.09.2003. The cause of death/diagnosis arrived by the authorities was "pregnancy induced hypertension with hepato renal failure – Septicemia". As per the case record of this hospital, the last menstruation period was recorded as 18.12.2002 and the expected date of delivery was reported as 25.09.2003.
- v) On a close perusal of the documents of the hospital, it is observed that different last dates of menstruation were recorded. Presuming the date recorded 18.12.2002 to be the correct one; the proposal was executed by the insured on 14.01.2003, just after 28 days of last menstruation. It would be highly improbable for a female life to come to the conclusion that her menstruation stopped and that she was pregnant. The menstrual cycle would differ from person to person and also depends upon several factors relating to one's health. Further, the insured was just aged 18 Years and may not possess thorough knowledge relating to pregnancy and pregnancy related problems. After all, the last date of menstruation is a product of wisdom of hindsight as it is calculated having regard to subsequent developments. In all probability, the Deceased Life Assured would not have known that she became pregnant when the policy was taken.
- vi) According to the underwriting norms of LIC, if one-month period had elapsed from the date of last menstruation to the date of proposal, the insured would be required to submit a declaration of good health form. In the instant case, even if the dates (18.12.2002/25/12/2002) were taken, the question of submitting declaration of goodhealth form does not arises and consequently, there would not be any material change in underwriting the risk.
- vii) In this connection, it is also profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies. "In course of time, the Corporation have grown in size and at present, it is one of largest public sector financial undertakings. The public in general and the crores of policyholders in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and reputation depend on its prompt and efficient service. Therefore, the

approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be one of extreme care and caution. It should not be dealt with in a mechanical and routine manner”;

viii) Having regard to the facts and circumstances of the case, as discussed above, I hold that the repudiation of the claim under the policy in dispute by the insurer is not legal, correct, proper and justified. I am, therefore, of the view that it is only fit and proper to direct the insurer to settle the claim under the above policy;

I, therefore, direct the insurer to settle the claim under the above policy for full sum assured under the policy.

The complaint is, therefore, allowed for sum assured under the policy.

Hyderabad Ombudsman Centre
Case No. IO (HYD)L / 21.001.0457 / 2004 - 05
Smt. Y. Rajeswari
Vs.
Life Insurance Corporation of India

Award Dated 31.3.2005

Facts of the case : One Shri Govindaraj, S/o late Krishnappa, working in L.R.D.E. and a resident of Bangalore took the above insurance policy in 11/1990 for a sum assured of Rs. 30,000 from Civil Station Branch of LIC, under Bangalore-II Division. The policy was taken under salary savings scheme. Accordingly, premiums were received upto 03/1995. The insured was reported to be missing from 03.05.1995. Smt. Y. Rajeshwari, the complainant under the policy lodged a complaint with the police and also informed the LIC about missing of the life assured. The insurer received the communication of the complainant only on 02.05.2000 by which date the policy was in a lapsed condition. As per the advice of the insurer, the complainant obtained a decree from court. The life assured was presumed to be dead with effect from 03.05.2002, as per the decree passed by XXIV Addl. City Civil Judge, Bangalore. The insurer, therefore, offered paid -up value accrued as on the date of missing and sent the necessary documents to the complainant. After receiving the documents, the insurer issued cheque for Rs. 7905.00. But not satisfied with the amount offered by the insurer, the complainant returned the cheque to the insurer.

Decision : I have carefully perused the papers placed before me including the written submissions of the complainant and also heard the arguments of both sides.

- a) The life assured took a Money Back Insurance Policy in 11/1990 for a Sum Assured of Rs. 30,000. The policy was taken by the insured under salary savings scheme. Accordingly, the premiums were recovered by his employer from the salary of the life assured and remitted to LIC. LIC received premiums up to and including 03/1995. Thereafter, the premiums were not recovered and remitted to LIC. According to the complaint, the life assured was missing since 03.05.1995. The life assured could not be traced inspite of best efforts taken by the complainant including police report.
- b) According to the insurer, they received intimation from the complainant informing them about the fact of missing of the insured only 02.05.2000. Since the premiums were received up to 03/1995, as mentioned above, accordingly to the terms and conditions of the policy, the policy was in a lapsed condition and hence the amount payable under the policy was only paid up value along with accrued bonus. They have, therefore, advised the complainant to obtain a decree from a competent court of law, which was a necessary requirement for arriving at the date of death.
- c) It would be relevant to mention the relevant section governing presumption of death. Under Sec. 108 of the Indian Evidence Act 1872, when the question before a court is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it. Thus, if a person has

not been heard of for seven years, there is a presumption of law that he is dead, though it is a presumption, which is rebuttable. Where, therefore the life assured under a policy has not been heard of for seven years, the court may, on the application of his heirs, pass an order declaring that the life assured might be presumed to have died. Where such an order is passed, **a claim would lie under the policy, provided that the policy is in force on the date of such order or it has acquired a paid up value**".

- d) In the instant case, the insurer advised the complainant to obtain and submit a decree from the competent authority. Accordingly, the complainant applied to the court for a decree and the Hon'ble XXIV Addl. City Judge, Bangalore passed a decree on 05.04.2004. The Hon'ble Judge passed the decree and ordered that the life assured was presumed to be dead with effect from 03.05.2002.
- e) In view of the fact that the policy was in a lapsed condition as on the date of intimation; in view of the fact that the policy acquired only paid up value and accrued bonus; in view of the fact that submission of decree from competent court of law was a pre-requisite for considering final settlement of a claim and in view of the legal provision as mentioned above, I am of the view that the action of the insurer based on the above provisions in settling the claim for paid up value along with accrued bonus was correct, proper and justified. It does not call for my interference and hence the complaint is dismissed.
- f) However, taking into account the hardship and financial inconvenience caused to the complainant in obtaining the decree from the court, I am of the view that it is just and proper to meet the ends of justice to direct the insurer to make a payment of Rs. 10000.00 (Rupees ten thousand only) as ex gratia by invoking Rule 18 of the Redressal of Public Grievances Rules 1998 on humanitarian grounds and hence the insurer is directed to pay Rs. 10,000 (Rupees ten thousand only) as ex gratia to the complainant.
- g) In the result, the complaint is allowed subject to (e) and (f) above.

Hyderabad Ombudsman Centre
Case No. IO (HYD)L 21.001.0362 / 2004 - 05
Smt. G. Chennamma
Vs.

Life Insurance Corporation of India

Award Dated 31.3.2005

BACKGROUND : One Shri Gooty Ramachandra, S/o Shri G. Erikananna took the above insurance policy from Kadiri Branch of LIC, under Cuddapah Division. The policy covered the risk of accidental benefit, in case of death by accident, as per the policy conditions. The life assured died on 18.04.2003. The cause of death was reported to be electric shock. LIC settled the claim for Basic Sum Assured but repudiated / rejected the claim for accidental benefit alleging that the complainant did not submit any evidence satisfactory to the Corporation, establishing the cause of death as accident.

Decision : I have carefully perused the papers placed before me including the written submission of the complainant and also heard the arguments of both side:

- a) The life assured took a New Janaraksha Insurance Policy in 03/1994 for a Sum Assured of Rs. 10000. The policy covered the risk of accident benefit in case of death of the life assured by accident. He died on 18.04.2003. The cause of death was reported to be electric shock. Since it was a non-early claim, LIC settled the claim for Basic Sum Assured but repudiated/rejected the claim for accident benefit on the grounds that the complainant did not produce satisfactory proof establishing accidental death of the life assured, as per the policy conditions;
- b) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to know that the salient features of the relevant clause governing the

Accident Benefit under a policy. "10.2: If at any time when this policy is in force for full sum assured the Life Assured before expiry of the period for which the premium is payable is involved in an accident resulting in either in permanent disability or death and the same is proved to the satisfaction of the Corporation, the Corporation agrees in case of death of the life assured :

To pay an additional sum equal to the Sum Assured under this policy, if the Life Assured shall sustain any bodily injury resulting solely and directly from the accidental injuries caused by outward, violent and visible means and such injury within 180 days of its occurrence solely, directly and independently of all other causes result in the death of the Life Assured". The Corporation shall not be liable to pay the additional sum referred above if the death of the life assured shall be caused by, if the death of the life assured shall: result from the Life Assured **committing any breach of law**";

- c) In the instant case, the insurer arranged for investigation into bonafides of the claim. Their investigations revealed that the life assured climbed electric pole and was pulling wire to connect to his bore well for watering his agricultural lands. While the deceased life assured was pulling the wire, it came into contact with high-tension wire and thereby was electrocuted and the insured died instantaneously. The action of the insured was clearly against law and thereby committed breach of law;
- d) No contrary evidence was let in by the complainant as she did not even submit any satisfactory proof of accidental death to the insurer and deny the allegations of the insurer. As the policy condition excluded payment of accident benefit if there was any breach of law by the life assured, I am of the view that the repudiation/ rejection of the claim for accident benefit by the insurer based on their enquiries and policy conditions is proper, correct and justified and does not warrant any interference at my hands. In the result, the complaint is dismissed.

Hyderabad Ombudsman Centre
Case No. IO (HYD) L - 0128 - 2004 - 05
Smt. P. Kausalya
Vs.
Life Insurance Corporation of India

Award Dated 31.3.2005

Facts of the case : One Shri Pillalamari Sreeramulu, S/o P. Chandraiah, occupation - agriculturist, and a resident of Warangal District took a New Janarakasha Policy in 03/2002 from Warangal Branch of LIC of India, under Warangal Division. The life assured died on 03.09.2003. The complainant reported that the insured died at his residence due to **renal failure**. Smt. P. Kausalya, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while executing the proposal for the insurance policy, gave false answers to certain questions in the proposal form dated 30.03.2002. It was also alleged by the LIC that they held indisputable proof, to show that even before he executed the proposal for the insurance policy, he had history of chronic duodenal ulcer and took treatment for the same on several occasions. He, however, did not disclose these facts in the proposal form submitted by him at the time of taking the insurance policy. Finding the life assured to be guilty of fraudulent suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Decision : I heard the contentions of both side and also perused all the documents placed before me including the written submission of the complainant :

- i) The life assured took a New Janaraksha Insurance Policy in 03/2002 for a sum assured of Rs. 50,000. The life assured was an agriculturist and was a resident of Warangal District. He died on 30.09.2003. The cause of death was reported to be renal failure.

The duration of the claim for risk date was 1 year and 6 months and since it was an early claim, the insurer arranged for investigation into the bonafides of the claim.

- ii) The insurer repudiated the claim on the ground that the life assured had deliberately suppressed material facts relating to his health while executing the insurance policy in 03/2002. According to the insurer, the life assured suffered chronic duodenal ulcer and took treatment for the same, even prior to his taking the insurance policy.
- iii) Section 45 of the Insurance Act 1938 was applicable under the claim as the insurer repudiated the claim after expiry of two years from the date of commencement of the policy. Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts, which it was material to disclose. The said provision lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose.
- iv) In support of their repudiation, the insurer obtained treatment particulars from Medinova Diagnostic Services, Hyderabad where the insured 1st consulted and had Upper G.I. Endoscopy on 07.04.1997 and the impression of the report was "GR II Oesophagitis-Chronic Duodenal Ulcer : 2nd part not entered - Status Post Duodenostomy for Annular Pancreas". The insured again had Upper G.I. Endoscopy on 30.06.1998 and the impression of the report was "GR I Oesophagitis; healed duodenal ulcer with duodenitis; status post duodeno duodenostomy". Just before death, the life assured consulted Asian Institute of Gastroenterology, Hyderabad on 17.07.2003 and the diagnosis arrived by the authorities was "Chronic Renal Failure; requires further evaluation with nephrologist; previously operated for annular pancreas; No major GI problem at present." According to Dr. M. Venkatramana of Hanamkonda, the primary cause of death was renal failure and the doctor reported the duration as 3 months. Even this doctor reported that the he had treated the insured on **OP** basis during July- September 2003.
- v) The deceased life assured had Upper G.I. Endoscopy in 04/1997 and 06/1998. He executed the proposal for insurance only in 03/2002, after a lapse of four years. The ground for repudiation of the claim was suppression of material facts relating to chronic duodenal ulcer by the insured.
- vi) According to Mosby's Medical Dictionary 2003 (Page Nos.369 & 858), the implications of duodenal ulcer are "an ulcer in the duodenum, the most common type of peptic ulcer". Peptic ulcers may be acute or chronic. Chronic ulcers are true ulcers; They are deep, single, persistent and symptomatic; the muscular coat of the wall of the organ does not regenerate; a scar forms, marking the site, and the mucosa may heal completely. Peptic ulcers are caused by a combination of poorly understood factors, including an excessive secretion of gastric acid, inadequate protection of the mucus membrane, stress, heredity, and the taking of certain drugs, including the corticosteroids, certain antihypertensive, and anti-inflammatory medications".

- vii) As regards suppression of material facts, I find that the LIC had thoroughly investigated the matter and proved that the life assured did suppress certain facts. As already referred by me above, the insured had Upper G.I. Endoscopy twice and the findings of these reports did indicate GR II Oesophagitis and Chronic Duodenal Ulcer. Therefore, while there is undoubtedly a suppression of the facts that he was suffering from duodenal ulcer, it does establish that he fraudulently did it. To establish fraud, the LIC would have to prove in this case that it was their normal practice not to give insurance policies in favour of people suffering from the above disease and the life assured by not divulging the fact obtained policy thereby gaining an advantage for himself vis-a-vis other policyholders. Since it is not the policy of LIC to deny insurance policies to people suffering from for the above disease at the time of inception / revival of the policy, it does not constitute fraud. Perhaps, the insurer may load the premium suitably and offered the insurance coverage;
- viii) Further, the cause of death reported by the doctor/complainant was renal failure and the duration was reported to be 3 months. This was only after taking the insurance policy. It would be pertinent to mention that the insurer could not prove that the suppressed material facts had a real nexus with the cause of death of the life assured. If there was a nexus, the insurer should have obtained and submitted independent and believable medical opinion from Medical Experts, before Insurance Ombudsman to drive home their contentions.
- ix) The insurer issued the policy under dispute under medical scheme and their authorized medical examiner could not furnish any adverse features relating to the health of the insured.
- x) The only contention of LIC appears to be violation of the principle of utmost good faith. Considering the fact that the material fact not disclosed is not affecting consideration of the insured for insurance; the fact that the undisclosed information apparently has no nexus with the cause of death and the fact that the insured could not establish fraudulent intent on the part of the life assured beyond doubt and the fact that the repudiation of the claim by the insurer did not fulfill all the three ingredients as required under 2nd part of Sec. 45 of the Insurance Act. 1938, I am left with no other alternative than to allow the complaint in favour of the complainant.
- xi) Having regard to the facts and circumstances of the case as discussed above, I hold that the repudiation of the claim of the complainant under the aforesaid insurance policy by the insurer is not legal, correct, proper and justified and I am of the view that it is only fit and proper to direct the insurer to settle the claim under the aforesaid policy after loading the premium, if any, for duodenal ulcer and recover the same from the claim amount with interest, as per their underwriting rules in force.

In the result, the complaint is allowed subject to (xi) above.

**Kochi Ombudsman Centre
Case No. IO / KCH / 21 / KKD / 09 / 2004 - 05
Smt. Karthiyani
Vs.**

Life Insurance Corporation of India

Award Dated 12.10.2004

Smt. Karthiyani has filed this complaint challenging the orders of repudiation of her claim under Policy No. 791689627 of her daughter Late Ms. Padmini at the hands of the respondent on the ground that the Life Assured had suppressed material facts at the time of revival. At the time of revival she was undergoing treatment for cancer and she got her policy revived without mentioning the treatment particulars. The complaint prays for

reviewing the decision of the respondent and for awarding the entire amount covered by the policy.

The Insurer argued that the life assured had submitted a declaration at the time of revival of the policy wherein she had declared she was maintaining perfect health and had not undergone any medical or surgical treatment. On the basis of this declaration the policy was revived. The respondent had collected ample evidences to prove that the Life Assured was under treatment for cancer at the time of revival and the revival has become null and void for non-disclosure of material facts and so had the assured forfeited all the benefits under this policy. The claimant is eligible only for the paid-up value as on the date of lapse. The decision to repudiate the claim was in order.

Taking into consideration all the records available in the file and also the contention of the parties concerned, the Ombudsman ruled that the Life Assured was accountable for the declaration she had made at the time of revival. The declaration explicitly states that if the same proves to be wrong on a later date, the contract becomes null and void and all the benefits will be forfeited. The decision of the respondent to repudiate the claim is genuinely made and this Authority does not want to interfere with the highly justified decision of the respondent. Nevertheless, taking into account the impecunious situation of the claimant, her responsibilities towards the young grand child and in order to meet the ends of justice, this Authority directs the respondent to pay a sum of Rs. 4000/- to the complainant by way of ex-gratia under Rule 18 of the RPG Rules 1998 in Addition to the amount available as per the policy conditions.

In the above premises the complaint is disposed of as above.

Kochi Ombudsman Centre
Case No. IO / KCH / 21 / EKM / 018 / 2004 - 05
Smt. Janaki
Vs.
Life Insurance Corporation of India

Award Dated 20.10.2004

Smt. Janaki has filed this complaint challenging the orders of repudiation of her claim under Policy No. 771628665 of her husband Late A Raman at the order of the hands of the respondent on the ground that the Life Assured had committed suicide within one year of policy and as per Condition 6 of the policy insurer is not liable to honour the claim. Aggrieved by the decision, complainant had approached this Authority and prays for reviewing the order of the respondent and for awarding the entire amounts covered by the policy.

The insurer argued that the life assured had committed suicide within one year from the date of policy and as per the policy conditions nothing was payable. The decision to repudiate the claim invoking Clause 6 of the Policy is perfectly in order and by the higher office also upheld their decision.

Taking into consideration all the records available in the file and also the contentions of the parties Concerned, the Ombudsman ruled that the claim is hit by Clause 6 of the Policy and the insurer is not liable to honour the claim. The decision of the respondent to repudiate the claim is genuinely made and this Authority does not want to interfere with the highly justified decision of the respondent. Nevertheless, taking into account the impecunious situation of claimant, her responsibilities towards the young minor school going daughters and in order to meet the ends of justice, this Authority directs the respondent to pay sum of Rs. 8000/- to the complainant by way of ex-gratia under Rule 18 of the RPG Rules 1998 to mitigate her hardship.

In the above premises the complaint is disposed of as above.

Kochi Ombudsman Centre

Case No. IO / KCH / 21 / TVM / 20 / 2004 - 05

Smt. Beena Yousuf

Vs.

Life Insurance Corporation of India

Award Dated 25.10.2004

Smt. Beena Yousuf has filed this complaint challenging the orders of repudiation of her claim under Policy No. 771697404 of her husband Late K K Yousuf at the hand of the respondent on the ground that the life assured had suppressed material facts while proposing for insurance. She refutes the allegation and prays to set aside the orders of repudiation and awards a sum of Rs. 8000/-, the amount paid under this policy as compensation.

The Insurer argued that the proposer had concealed material facts while proposing for insurance. He was under treatment for myocardial infarction for the past 10 years and after the date of proposal, but before issue of First Premium Receipt he was undergoing treatment at St. Joseph Hospital, Manjummal. Though he was expected to intimate the insurer regarding the change in his health conditions before issue of FPR, he had not done so. He had violated the principle of utmost good faith and the policy had become void ab initio. Rejection of the claim genuinely made and it does not require any modification. The higher office also endorsed their decision.

Taking into consideration all the records available in the file and also the contention of the parties concerned, the ombudsman ruled that the Life Assured was accountable for all the answers in the proposal forms. The declaration explicitly states that if the answers given in the proposal forms, on the basis of which the contract was entered between the parties, prove to be wrong on a later date, the contract becomes null and void and all the benefits will be forfeited. The decision of the respondent to repudiate the claim is genuinely made and this Authority does not want to interfere with the highly justified decision of the respondent.

Being devoid of merits, this complainant is dismissed.

Kochi Ombudsman Centre

Case No. IO / KCH / 001.21 / TVM / 2004 - 05

Smt. Christina Millet

Vs.

Life Insurance Corporation of India

Award Dated 27.10.2004

Smt. Christina Millet has filed this complaint challenging the orders of repudiation of her claim under Policy No. 782757787 of her husband Late Bernabas Millet at the hands of the respondent on the ground that the policy in question was in a lapsed condition as on the date of death of the life assured. The complaint refutes this allegation and prays to reopen the case and award the full insurance amount.

The insurer argued that the premium due 28.07.83 was paid by cheque on 27.08.2003. The bank for the reason "Party expired" dishonored the cheque. The Insurer had collected the bank statement to confirm whether the life assured had sufficient funds as on the date of remittance of premium or at a subsequent date so as to honour the cheque. They contented that the account was not having sufficient fund even on the date of death of the life assured. As such the policy stands lapsed from 28.07.2003 and no benefit is allowable on death. Rejection of the claim is genuinely made and it does not require any modification. The higher office also endorsed their decision.

Taking into consideration all the records available in the file and also the contentions of the parties concerned, the Ombudsman ruled that the Life Assured offered the cheque towards the payment of premium due 28.07.2003 without having sufficient funds in his Account.

Even if the Life Assured were alive, the cheque would have been dishonoured for want of sufficient funds. A lapsed policy does not attract any benefits. The complainant does not deserve any ex-gratia treatment also. The decision of the respondent to repudiate the claim is genuinely made and this authority does not want to interfere with the highly justified decision of the respondent.

Being devoid of merits, this complaint is dismissed.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / 21.001.19 / KTM / 2004 - 05
Shri. V. C. Sabu
Vs.
Life Insurance Corporation of India

Award Dated 16.11.2004

The complainant Shri V. C. Sabu is the husband of late C. Lijji who had three Life Insurance Policies (391890355, 392302775 & 392302776) with the Kottayam Division of LIC. These policies were taken in March 2001 and January 2002. However, the life assured was found to be a patient of intra-vertebral disc prolapse and bronchial asthma right from September 2000 and all the proposals were given as if she was hail and healthy - in other words, there was a very clear suppression of material facts. Besides, one of the proposals was given while the Life Assured was 5.6 months pregnant without disclosing the pregnancy in the proposal. Under these circumstances, the insurer has repudiated the claims and the representation of the claimant before the Claims Review Committee was also turned down and hence a complaint was preferred before this Forum.

The facts of the cause were extremely clear and the question of suppression of material facts relevant to the assessment of the risk was proved beyond any doubt. Under these circumstances, the repudiation of the claim by the insurer was found to be in order and the complaint being devoid of merits, was dismissed.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / TVM / 21.001.022 / 2004 - 05
Ms. Silpa
Vs.
Life Insurance Corporation of India

Award Dated 16.12.2004

The complainant under Rule No. 12(1) (b) read with Rule 13 of the RPG Rules 1998 is due to repudiation of a death claim under Pol no. 782922551 - held by the father of the complainant. The policy holder late Shri G. Pushparajan had taken out the above policy from LIC with date of commencement as 19.11.2003 and nominated his daughter - the complainant as the beneficiary. The policy holder died on 10.1.2004 reportedly due to heart attack. The claim was repudiated by the insurer for suppression of material facts. The insurer also stated that although a proposal was submitted on 13.11.2003, the medical examination was conducted by a Doctor with lesser limit and hence a fresh proposal along with another medical report from a competent Doctor/ special reports was received by the insurer on 4.12.2003. The date of commencement was allowed as 19.11.2003 only to confer the benefit of lower age to the party. However, during investigation of the claim, the insurer came to know that the life assured had proposed for another 20 lakhs of insurance with M/s Allianz Bajaj in Nov. 2003 itself and this information was withheld in the papers submitted to the LIC. Obviously, if the information were furnished to the LIC, the sum at risk would have been different and the medical requirements also would have been vastly different. It was clear from the papers that the life assured had intentionally tried to mislead the Insurance companies by suppressing the information with each other and having violated the solemn declaration in the proposal which was the basis of contract on

“Utmost good faith”, the repudiation of the claim by the insurer for suppression of material facts was upheld and the complaint dismissed.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / TVM / 21.001.024 / 2004 - 05
Smt. K. Shahema
Vs.

Life Insurance Corporation of India

Award Dated 23.12.2004

The complainant under Rule No. 12(1) (b) read with Rule 13 of the RPG Rule 1998 arose out of repudiation of a death claim by LIC under an unconcluded contract. A proposal for Rs. 50,000/- under the Non-medical scheme was received from one Shri Abdussalam P. K. on 24.08.2001. Since the proposal was not acceptable under the Non-Medical scheme, a fresh proposal along with medical report was called for on 25.08.2001. The initial deposit was with LIC under the Proposal deposit account pending completion of the proposal. In the meantime on 24.08.2001 itself the life proposed met with a road accident and died. Since there was no concluded contract with the LIC, the claim was rejected and the said rejection was also confirmed by the Zonal Office of the insurer. The complainant is the wife of the proposer Shri. Abdussalam who died in the accident. On perusal of the papers on the file and after hearing the parties, this Forum also came to the conclusion that there was no valid insurance contract as on the date of accident and therefore nothing was payable to the complainant. However, considering the pitiable pecuniary circumstances of the complainant a nominal ex-gratia of Rs. 2,000/- was awarded to her under Rule 18 of the RPG Rules.

Kochi Ombudsman Centre
Case No. IO / KCH / L / 21.001.025 / KTM / 2004 - 05
Smt. Rasheeda Ibrahim
Vs.

Life Insurance Corporation of India

Award Dated 04.1.2005

The complainant Smt Rasheeda Ibrahim is the window of late PP Ibrahim who was covered under Policy No. 773803096 with the Ernakulam Division of LIC. The Policy was taken in December 2001. He died on 24.04.2002 due to Metastatic Adenocarcinoma of Spine and Urinary Infection. The Respondent insurer has repudiated her claim for death benefits on the ground that the Life Assured had withheld material information regarding his health from the insurer and thereby violated the principle of “Utmost Good Faith”. Claims Review Committee also turned down her appeal and hence a complaint was preferred before this Forum.

The Insurer contented that the Life Assured had undergone treatment at Mar Baselious Hospital Kothamangalam and these facts were not mentioned in the proposal form submitted by him. The facts of the case were extremely clear and the question of suppression of material facts relevant to the assessment of the risk was proved beyond any doubt. Under these circumstances, the repudiation of the claim by the Insurer was found to be in order and the complaint being devoid of merits, was dismissed.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / TVM / 21.001.026 / 2004 - 05
Smt. S. Sindhu
Vs.

Life Insurance Corporation of India

Award Dated 28.2.2005

The complainant under Rule No. 12(1) (b) read with Rule 13 of the RPG Rules 1998 came up as a result of repudiation of a life insurance claim. The claimant's husband - late Shri Savoo had proposed for life insurance on 31.01.2003 and Q.No. 11(g) of the proposal form relating to any accident/injury was answered in the negative. On 21.04.2004, the insurer received a message stating that the life assured died at Trivandrum Medical College on 14.4.2003. When the records were obtained, it was revealed that the life assured had met with a scooter accident on 17.12.2002 and sustained major injuries. This was not disclosed in the proposal and the policy was completed in the normal course. Since the life assured had evidently suppressed a vital information material to the proper assessment of risk, the LIC had repudiated the claim. From the records, the accident was proved and the non-disclosure - rather suppression of the same in the proposal papers - was also proved and hence the action of the insurer in repudiating the claim was upheld.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / KTM / 21.001.027 / 2004 - 05
Smt. Padmakumari Radhakrishnan
Vs.
Life Insurance Corporation of India

Award Dated 2.3.2005

The complaint under Rule No. 12(1) (b) read with Rule 13 of the RPG Rule 1998 tems out of repudiation of a life insurance claim under two policies held by the husband of the complainant. The complainant's husband had three life insurance policies, which were all lapsed at different times, and he had revived them by giving a declaration of good health on 8.9.2001 and 12.09.2001. One of the policies lapsed again which was further revived on 10.12.2003 on the basis of another Declaration of good health. However, on receiving intimation of the death claim, the insurer had caused an investigation, which revealed that the life assured was suffering from Diabetes and Hyper, cholesterolemia during the lapsation period of the policies and the revivals were effected suppressing treatment for the said diseases. Therefore, the insurer had repudiated the claims and offered to settle the acquired paid -up value under the policies. Subsequently, on a representation to the higher authorities of the insurer, the claim was admitted in full under one policy while the paid-up value settlement under the other two policies was upheld by them. The circumstances of the case being very clear, the insurer was justified in repudiating the revival although subsequently they had themselves settled in full one on the cases. The complaint was found devoid of merit and was dismissed accordingly.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / KTM / 21.001.030 / 2004 - 05
Shri V. Mohanan
Vs.
Life Insurance Corporation of India

Award Dated 17.3.2005

The complainant under Rule No. 12(1) (b) read with Rule 13 of the RPG Rules 1998 arose due to repudiation of a death claim under policy no 391483863 held by the wife of the complainant. The policy which commenced on 28.10.2002 resulted into a death claim within two years and during investigations the insurer had found out that the life assured was suffering from a cancerous lump in the breast and a pre cancerous ulcer on the tongue for which treatment was going intermittently at different places even before commencement of the policy. There was non-disclosure of these facts in the proposal as also about another policy of the life assured, which was already lapsed. Although the claim was repudiated, the Zonal office of the insurer, on representation, granted an ex-gratia of RS. 6250/- to the complainant, which he refused to accept. Considering the impecunious condition of the life assured who was a mechanic with three small children and also in view of the fact that the

earlier policy was also lapsed without any benefits ground there from this Forum awarded an ex-gratia of Rs. 7500/- to the complainant and the complaint was disposed of.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / 21.001.032 / 2004 - 05
Smt. S. Jayanthi
Vs.

Life Insurance Corporation of India

Award Dated 23.3.2005

The complaint under Rule No. 12(1) (b) read with Rule 13 of the RPG Rules, 1998 was out of repudiation of a death claim by the respondent insurer under policy 762214952 held by the husband of the complainant. The life assured was a Khalasi / Helper working for the Southern Railway. He was run over by a train and died on 20.5.03. The disputed policy was taken by the life assured in January 2003 based on a proposal wherein it was declared that the he was hale and hearty in all respects. However, since the claim was within two years from the date of commencement of the policy, the insurer had got it investigated and the investigation revealed that the life assured was suffering from Epilepsy and Seizure disorder even in 2002. The Railway Hospital records proved the case against the complainant. It is said that the life assured had fainted and fallen on the Railway track when he was run over by a train. Since the previous history of illness and suppression of the same in the proposal papers were well established, the repudiation was found proper. As the complainant was receiving family pension besides other lumpsum payment consequent on the death of the life assured, there was also no ground for any ex-gratia and therefore the complaint was dismissed.

Kochi Ombudsman Centre
Case No. IO / KCH / LI / 21.001.033 / 2004 - 05
Smt. Lissy Joseph
Vs.

Life Insurance Corporation of India

Award Dated 30.3.2005

The complaint under Rule No. 12(1) (b) read with Rule 13 of the RPG Rules 1998 is in relation to repudiation of a revival death claim by the insurer under Pol. No. 773344452 for non-disclosure of material facts at the time of revival. The policy was held by the complainant's husband and the lapsed policy was revived on 16.03.2004 by paying four defaulted premia due form 3/2003. The life assured died on 11.4.2004 barely 25 days after payment of the revival arrears. The life assured was hospitalized from 8.3.2004 to 16.3.2004. He was suffering from Adeno Carcinoma Rectum with secondaries in Liver. It was seen from the records that the lapsed policy was revived on 16.3.2004 by submitting a personal statement of health concealing the cancer treatment. In fact, the date of revival viz. 16.3.2004 was also the date of his discharge from the hospital. Under these circumstances, the revival was repudiated by the insurer and the paid -up value available under the policy viz 59700/- was offered to the complainant which was however refused by her and hence the complaint. The revival repudiation being on string grounds, while upholding the same, this Forum awarded an additional sum of Rs. 11,000/- to the complainant being the found of the premiums paid for revival which was repudiated and the complaint was disposed of.

Kolkata Ombudsman Centre
Case No. 359 / 24 / 001 / L / 9 / 2004 - 05
Smt. Santa Mukherjee
Vs.

Life Insurance Corporation of India

Award Dated 22.2.2005

Facts / Submissions : Shri Subrata Mukherjee husband of the complainant Smt. Santa Mukherjee and an employee of Overland Investment Company had a policy of Rs. 50,000 under Salary Saving Scheme. Shri Mukherjee expired on 13.10.93, just about 8 months after the commencement of the policy. The relatives enquired about the settlement of death claim with L.I.C.I. and Smt. Santa Mukharjee also appealed to L.I.C.I. in April 2000 and on 05.08.04 for the settlement of claim. They were informed by KMDO I, L.I.C.I. that the policy had been transferred to Shyambazar BO on 27.11.01. Since no reply was received from Shyambazar BO inspite of her appeal, she wrote to us for settlement of Rs. 50,000/- as death claim. L.I.C.I., KMDO-I vide their SCN dated 19.12.04 stated that there was neither any correspondence paper in between Insurer and the nominee regarding death claim nor any policy docket and death certificate related to this, in the policy bag.

Held : From the facts, it was observed that CMDO called for the Original Policy Bond, Death Certificate and the last remittance certificate of premium from the Employer but Smt. Santa Mukherjee, the nominee, could not produce these papers except Death Certificate. Hence the Insurer treated the claim as time-barred and so it was not entertainable.

Since the complainant was ignorant about the rules of L.I.C.I., she could not submit her claim within the time schedule. The Insurer had been directed to seek permission from its Corporate Office and open the case for processing and in case of necessity, an enquiry might be initiated by an officer of the Corporation not below the rank of ADM to ascertain the bonafide of the claim within 1 month from the date of receipt of consent letter from the complainant.

Kolkata Ombudsman Centre
Case No. 342 / 21 / 001 / L / 9 / 2004.05
Smt. Uma Chakraborty
Vs.
Life Insurance Corporation of India

Award Dated 28.2.2005

Facts / Submissions : Shri Chandrakanta Chakraborty, the DLA had a policy of Rs. 34,000/- under 14 / 15 on 28.02.99. He expired on 03.06.01 but the claim was repudiated by L.I.C.I., KMDO II.

From the SCN submitted by L.I.C.I., it was observed that the complainant had submitted all the papers / Forms with information on 11.06.02 except for the leave particulars of the DLA. The Branch Office of L.I.C.I., collected the leave particulars from the Employer and found that the DLA had a history of illness of serious nature prior to the date of commencement of the policy. In the records of Kasturi Nursing home (where the DLA died) the DLA was found to be Diabetic and Renal Failure patient and as per Claim Form 'B' the cause of death was Hypoglycemia in a case of NIDDM with CRF. The DLA had suppressed all these facts in the Proposal Form (Q.11). Hence KMDO II repudiated the claim.

Held : LA was a patient of Hypoglycemia, Renal Failure, Bronchial Asthma, Bronchial Pneumonia, Hypertension, Rheumatics pain, NIDDM, etc. as per Claim Forms 'B', 'B1' and certificates issued by Kasturi Medical Research Centre (P) Ltd.. The DLA availed of leave on medical ground on several occasions. He was also admitted at Vidyasagar Hospital for 10 days from 04.05.1998 to 13.05.1998 for Broncho Pneumonia. Since it was a clear case of suppression of material facts, the repudiation by the Insurer was justified.

Kolkata Ombudsman Centre
Case No. 472 / 21 / 001 / L / 11 / 2004.05
Shri. Baleshwar Singh
Vs.
Life Insurance Corporation of India

Award Dated 28.3.2005

Facts / Submissions : The Complainant, brother of the deceased Shri Tarakeswar Singh, claimed Death Claim on the death of his brother due to snake bite. The Insurer repudiated the claim on the ground that the DLA had suppressed some material facts of his health while effecting the policy.

One investigation LICI, Muzaffarpur D.O., found that the DLA was put behind the bar at Chapra Jail for the murder of his second wife and was treated there under Dr. D. P. Singh, medical Officer, District Jail, Chapra from 18.02.1997 to 21.11.1997 for Tuberculosis vide admission Registration No. 20/275. The DLA did not disclose his ailment in question no. 11 in Proposal Form.

Held : The death claim was repudiated by the Insurer for suppression of the material facts i.e. Tuberculosis and on the ground of snake bite. The cause of death was mentioned in the Death Certificate and in the Post Mortem Report also. Since the proximate cause of death was snake bite only, non disclosure of Tuberculosis while effecting the policy was immaterial. There was no merit in the repudiation of claim. So the decision of LICI was reversed and they were directed to pay Death Claim to the complainant as per policy condition.

**Mumbai Ombudsman Centre
Case No. LI - 187 / 2003 - 04
Shri Manoj L. Tripathi
Vs.**

Life Insurance Corporation of India

Award Dated 04.10.2004

Shri Laxmikant Devnarayan Tripathi took an insurance policy on 15.11.2000 from LIC of India, Nagpur DO and he died on 14.04.2002 due to heart attack. The claim was referred by Shri Manoj L. Tripathi, son of the deceased life assured and the same was repudiated by Nagpur DO of LIC vide their letter dated 26.12.2002 stating that the deceased life assured withheld material information regarding his health at the time of effecting the assurance with them and hence nothing is payable. Not satisfied with this the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of DO. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire case papers have been scrutinized. It is revealed that the deceased life assured had the history of operation for gallstones. In the Certificate of Treatment dated 05.12.2002 issued by Dr. CMO of J.M. Hospital, the nature of disease mentioned was "Heart attack with cardiogenic shock" and he was suffering since 1 year from this disease and had the history of operation for gall stones. Dr. Anup Marar of Orange City Hospital, Nagpur has mentioned in the Certificate of Treatment dated 26.11.2002 that the deceased life assured had first consulted him on 04.10.98 for gall bladder stone with cholecystitis and was on Active treatment for tuberculosis 40 years back from which he recovered. In the claim Form 'B' dated 05.05.02 issued by Cdr. S.P. Pendharkar (Retd), the primary cause was heart attack and secondary cause was cardiogenic shock. The insured had not disclosed this fact in the proposal form and hence suppression of material facts. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the claim is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 168 / 2003 - 04
Smt. Bharati Chandrayya Yellayya
Vs.
Life Insurance Corporation of India**

Award Dated 07.10.2004

Shri Chandrayya Yellayya had taken an Insurance Policy on 7.11.93 from LIC of India, Salary Saving Scheme Office and he expired on 19.10.1996 due to Cardio Respiratory Arrest caused by Pulmonary edema due to chronic renal failure. When a claim was preferred by Smt. Bharati Chandrayya Yellayya, wife of the deceased life assured and the same was repudiated by Salary Saving scheme Division of LIC vide their letter dated 08.11.1999 setting that the deceased life assured withheld material information regarding his health prior to the time of effecting the insurance with them and hence the claim was not payable. Not satisfied with the decision of LIC, Smt. Bharati C. Yellayya represented to the Zonal Office of LIC and Zonal Office decided to uphold the repudiation action by DO which was conveyed to the claimant on 26.7.03. Hence the claimant approached the Ombudsman seeking his intervention in settlement of her claim. The records of the case were perused. In the Claim Form 'B1' issued by Dr. S.S. Gupte, Nanavati Hospital the diagnosis arrived at has been mentioned as cardio respiratory arrest due to pulmonary edema due to chronic renal failure. While considering the statement made by the complainant in Claim Form A about the treatment taken by the deceased in Macina hospital earlier for "increased Diabetes" and also Claim Form B & B1 issued by the Doctors wherein it is mentioned about history of Diabetes Mellitus since 5 years - Hypertension since 3-4 months, it is quite clear that the onset of the disease Diabetes Mellitus must be well before the date of proposal. The records of Suchak Hospital where the life assured was treated recorded that he had Diabetes Mellitus with chronic renal failure with COPD and diabetic nephropathy. Hence, it is quite evident that the deceased life assured had not disclosed about his illness which he was suffering, at the time of taking insurance with LIC. Under the circumstances, this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and hence the claim of Smt. Bharati Yellayya is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 234 of 2003 - 04
Smt. Geeta M. Damahe**

Vs.

Life Insurance Corporation of India

Award Dated 11.10.2004

Shri Madhorad Motiram Damahe took an insurance policy on 15.02.2000 from LIC of India, Nagpur Divisional Office and he expired on 16.06.02 due to Cardio Respiratory Arrest and Intestinal Gangrene. The claim was preferred by Smt. Geeta M. Damahe, wife of the deceased life assured which was repudiated by Nagpur Divisional Office vide their letter dated 19.12.2002 stating that the life assured had withheld material information regarding his health condition at the time of effecting assurance with them on 15.01.2000 and hence the claim was not payable. The claimant made a representation action to Zonal Office of LIC and they have upheld the decision taken by the Divisional Office. Dis -satisfied with the decision of LIC, the claimant approached the Insurance Ombudsman, requesting his intervention in the above matter of settlement.

The entire case papers have been analyzed. It is observed from the Claim Form 'B' issued by Dr. Pradeep S. Meghare that the primary cause was Intestinal Gangrene and the secondary cause was Cardio Respiratory Arrest. In claim form 'E' it is mentioned that he was on sick leave from 26.01.2000 to 18.3.2000. From the records, it is observed that the life assured was admitted in Asha nursing Home on 27.1.2002 and discharged on 30.1.2000 and was under the treatment of Dr. Rajendra Agarwal and Blood Smear test and 'Brain pre / post Contrast C.T. Scan' were done respectively vide report dated 27.1.2000 from Dr. M. A. Rashid and report dated 27.1.2000 from Dr. Rajendra Agarwal. DR. Rajendera Agarwal has prescribed certain medicines for Partial Complex Seizure vide his prescription dated 30.1.2000, Dr. Chandrashekhar M. Meshram has prescribed medicines vide his prescriptions date 31.1.2000 & 8.2.2000. Hence it is evident that the life assured had taken

lot of treatment from the above Doctors prior to the Date of completion of the proposal, i.e. 15.02.2000. All these amount to suppression of the material information about the life assured's health. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and the same is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / A / 229 / 2004.05
Shri Devprakash Mehra
Vs.
Life Insurance Corporation of India

Award Dated 14.10.2004

Smt Pushpavati Devprakash Mehra had taken two insurance policies on 22.3.74 and 18.10.71 respectively from LIC of India, MDO -IV. The life assured died on 22.1.03 due to Falciparum malaria. The claim was preferred Shri Devprakash Mehra and the same was repudiated by LIC, MDO-IV due to foreclosure of the policy. When the life assured was alive he had availed loan under Policy No. 17678656 on 21.10.1974 and under Policy No. 17951554 on 25.11.81 after agreeing with all the terms and conditions of loan application. Due to the default in payment of loan interest , LIC informed the life assured about loan interest default from 18.10.1994 to 18.4.1997 and 14.3.1998 to 14.9.2000 by sending Notices on 16.8.2000 and 29.8.2000 respectively under policy No. 17678656 and policy No. 17951454. LIC also requested her to remit amount quoted in their above letters on or before 28.10.2000 under Policy No. 17951454 and on or before 16.10.2000 under Policy No. 17678656 failing which, the policies would be written off and the loan and interest will be adjusted out of the surrender value of the policies without any further intimation. However, the balance surrender value payment was not settled and in the meantime, the life assured expired on 22.01.2003. The claimant refused to avail balance surrender value and asked for consideration of full amount.

Analysis of the records would reveal that both the Policies are fully paid up whole life limited payment policies and under policy No. 17678656 last yearly premium paid was October 1990 and under Policy No. 17951454 last yearly premium paid was March 1999. The life assured has paid half yearly loan interest regularly upto April 1994 and upto September 1997 respectively under Policy no. 17678656 and Policy No. 17951454. Thus the life assured was fully aware of payment of half yearly loan interest on the specified due dates. While submitting loan application from to LIC, the life assured has agreed to the condition No. 6. Hence this Forum has no valid ground to interfere with the decision of LIC to pay only balance surrender value and accordingly LIC is directed to settle the dues as per their offer and resolve the matter.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 112 of 2003 - 04
Smt. Hirkanbai P. Patil
Vs.
Life Insurance Corporation of India

Award Dated 15.10.2004

Shri Pandharinath Gorakh Patil took insurance Policy on 28.08.2000 from LIC of India, Nashik Divisional Office and he died on 12.03.2002 due to poisoning. The claim was preferred by Smt. Hirkanbai P. Patil, wife of the deceased life assured and the same was repudiated by Nashik D.O. of LIC vide their letter dated 13.11.2002 stating that the deceased life assured withheld material information regarding his health at the time of effecting insurance with them. Not satisfied with the said decision Smt. Hirkanbai P. Patil made a representation to the Zonal Office of LIC and ZO decided to uphold the repudiation decision and the same was conveyed to the claimant vide D.O. Letter dated 7.2.2004. In

view of this, the claimant approached Insurance Ombudsman seeking his intervention in the matter.

From the Certificate of Treatment dated 22.09.2002 issued by Dr. J.J. Shah and also prescriptions dated 18.03.1994 & 9.5.94 by the said Doctor, it appears that the life assured was suffering from Allergic Asthma with Bronchitis in 1994. In the Claim Form 'E', the employer has stated that the last date of attending duty by the life assured was on 11.3.2002, i.e. one day prior to the date of death. As per the Investigation Report, the life assured had taken lot of loan from outside but nobody has confirmed this nor has given any statement to that effect. There is no corroboration to all these in the Investigation Report. A careful scrutiny of Form 5152 reveals that the Doctor has stated to have treated him for 8 months before death and that the life assured suffered from the disease for 8 months. In view of the fact that there has not been any conclusive proof of the life assured being unwell or on treatment before the proposal was made the stand taken by LIC on suppression of material facts is rather weak and suspect. As the repudiation of the liability was made on 13.11.02 which is beyond 2 years of acceptance of the Policy, LIC has to provide conclusive evidence of the life assured being under treatment all along. More over, the life assured died of poisoning which is categorically mentioned in the Post Mortem Report dated 22.03.2002 which is an independent cause of death and totally unrelated to the defence taken by LIC. As this attracts Section 45 in favour of the life assured and in absence of conclusive proof of suppression of material facts the benefit must go to the deceased life assured, i.e. the complainant. Under the circumstances, I hold that repudiation of claim on the ground of non-disclosure by LIC is not proved and the claim for the full sum assured for death benefit only under the Policy No. 967999539 to the complainant.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 91 of 2003 - 04
Mrs. Laxmi Pabba Gaud
Vs.
Life Insurance Corporation of India

Award Dated 15.10.2004

Shri Pabba Yella Gaud had taken three insurance policies from Nashik Divisional of LIC on 28.03.95, 28.06.01 and 28.03.02 respectively. Out of the three policies, one policy lapsed since 28.9.1995 due to non-payment of premium and the same was revived on 28.8.2001 on the strength of Declaration of Good Health dated nil received by LIC on 11.7.2001 after a period of almost 6 years. Shri Pabba Y. Gaud died on 30.9.2002. When the claim was preferred by the Claimant, wife of the deceased life assured, LIC repudiated the same vide their letter dated 14.12.2002 stating that while reviving the policy, the deceased life assured had suppressed material information in the Form of Declaration regarding good health by replying that he had not suffered from any diseases like, Tuberculosis etc and that he was in good health. Dis-satisfied by the decision, the claimant, sent a representation to the Zonal Manager, Western Zone of LIC but the Zonal Office also upheld the decision taken by the DO. She therefore, approached the Insurance Ombudsman seeking intervention in the matter.

The treatment case papers whatever available, have been scrutinized. The life assured was under the treatment of Dr. Kishore Gangurde, Specialist in Tuberculosis and as the illness became very serious, he was later on referred to Rajebahadur Hospital & Research Centre as per letter dated 12.1.04 of Dr. Kishore Gangurde. In the Claim Form 'B' dated 25.11.02 Dr. S.D. Deshpande, Rajebahadur Hospital & Research Centre had mentioned the primary cause as "Acute Cardio Respiratory Arrest and secondary cause as Extensive Pulmonary Koch's". He has also mentioned that the deceased was suffering from Pulmonary Koch's disease since 7 years. The insured had not disclosed about the T.B./Koch's disease and treatment particulars in the proposal forms and form of Declaration regarding good health,

hence suppression of material facts. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore, the claim of Smt. Laxmi P. Gaud for the sum assured under various policies on the life of Shri Pabba Yella Gaud is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 056 of 2004 - 05
Smt. Mangal D. Bhujbal
Vs.
Life Insurance Corporation of India

Award Dated 19.10.2004

Shri Devanand Bhaskar Bhujbal took an insurance policy on 28.10.1998 from LIC of India, SSS Division, Mumbai and he died on 27.12.2001 due to Hepatic Encephalopathy due to Alcoholic Hepatitis. The claim was preferred by Smt. Mangal D. Bhujbal, wife of the deceased life assured and the same was repudiated by LIC, SSS Division, Mumbai, vide their letter dated 14.7.2003 stating that the deceased life assured had withheld correct information regarding his health condition at the time of effecting the insurance and hence nothing is payable. Not satisfied with the decision, the claimant made a representation to the Zonal Office of LIC and Zonal Office upheld the decision taken by the Divisional Office. Therefore she approached Insurance Ombudsman requesting for his intervention in the matter.

The entire records have been scrutinized. It is revealed from Certificate of Treatment dated 11.6.02 issued by Dr. S. G. Jadhav that the deceased life assured had first consulted him in August 1995 for Enlarged Liver with Alcoholism and he was under his treatment upto 1998 intermittently. He has also mentioned that the life assured was addicted to alcohol. Later on, Dr. S. Jadhav referred the life assured to Kasturba Hospital vide his letter dated 19.12.01 stating that he was suffering firm Hepatitis and Anorexia. According to the Claim Form 'B' dated 30.8.02 issued by Dr. C.P. Pawar of Kasturba Hospital, the cause of death was Hepatic Encephalopathy due to alcoholism. Hepatic encephalopathy refers to a grave condition over a period of time which clearly suggests that the disease was prevalent for quite sometime. Thus nexus between cause of death and Cirrhosis of liver with alcoholism has been establish. The deceased life assured had not disclosed about consumption of alcohol and Cirrhosis of liver for which he took the treatment at the time of taking policy. The life assured disclosed the above information at the time of submission of the Proposal. Considering the entire facts, circumstances and various reports available on this case, there is no good ground to interfere with the decision taken by LIC to repudiate the claim and therefore the same is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 089 of 2004 - 05
Mrs. Sunita D. Shah
Vs.
Life Insurance Corporation of India

Award Dated 20.10.2004

Shri Deepak Trikamal Shah took an insurance policy on 24.11.2000 from LIC of India, MDO-III and he died on 22.07.2003 due to Squamous cell Ca, Oral Mucosa, general Cachexia, anaemia and Hypotrottenemia. The claim was preferred by Smt. Sunita D. Shah, wife of the deceased life assured and the same was repudiated by LIC, Mumbai Divisional Office - III vide their letter dated 08.04.2004 stating that the deceased life assured had withheld material information regarding his health at the time of effecting the insurance with them and hence not satisfied by this decision, the claimant made a representation to the Zonal Office of LIC and they upheld the decision of repudiation taken by the DO which

was conveyed to the claimant by their letter dated 2.7.2004. Therefore, she approached Insurance Ombudsman requesting intervention for an early settlement of the claim.

The case papers were scrutinized it is observed from Claim Form B dated 2.2.2004 issued by Dr. Suhas D. Shah that the life assured had first consulted him in January 2002. He has certified that the primary cause of death was "Ca of Oral Mucosa" and secondary cause was hypertension. Claim Form B1 dated 22.1.2004 from Jehangir Hospital stated that the life assured's date of admission was on 4.1.2002 for "Ca-Rt retromolar region" since December, 2001, tumor for 4 years, ulcer (Rt) oral cavity etc. In the Jehangir Hospital case sheet, it is mentioned that the life assured had the habit of tobacco chewing and smoking for last 20 years and was occasional alcoholic. He had the history of hemorrhoidectomy 10 years back. Dr. R. L. Marathe, Consulting Hematologists, in his report dated 28.12.2001 mentioned that the deceased life assured was suffering from "Squamous cell carcinoma grade III, oral mucosa" etc. He had the personal history of tobacco chewing, smoking, occasional alcoholic etc. The life assured had not disclosed the above illness and habit at the time of proposal for insurance. Hence suppression of material facts. Under the facts and circumstances of the case, this Forum have no valid grounds to interfere with the decision of LIC of India to repudiate the claim and same is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 227 of 2003 - 04
Smt. Manju G. Gupta
Vs.

Life Insurance Corporation of India

Award Dated 25.10.2004

Shri Gaurishankar Shivkumar Gupta took various Policies between 21.11.98 and 12.10.98 from Wardha Branch of Nagpur Divisional Office of LIC and he died on 13.02.03. All were lapsed due to non-payment of premiums. However, 4 policies had acquired paid-up value since premiums were paid for 3 years or more. The widow of the life assured, Smt. Manju G. Gupta lodged a claim with LIC of India who, in turn, informed about the status of the policies and that the paid-up value under the 4 policies only are payable. She then wrote to the Chairman of LIC requesting him to use the discretionary powers and pay the full sum. Not having received any reply from the Chairman of LIC, she approached Office of the Ombudsman, Mumbai requesting for intervention in the matter of settlement of full death claim.

Records were scrutinized and the status reports submitted by LIC have been gone through. As per the terms and conditions of the Policy documents, LIC cannot be faulted for rejecting the claim totally except under the 4 policies bearing where under reduced paid up value was available. The complainant had also forwarded Xerox copies of 2 pages of the personal diary of the deceased life assured where some entries are made regarding some amounts paid to the Agents ranging from Rs. 100/- to Rs. 300/- per day which is supposed to be towards renewal premiums payable to LIC. The claimant's request to transfer the premium paid under other Policies to the four policies considered by LIC for reduced paid up value payments, cannot also be accepted as per terms of contract and the guideline of operation of LIC. Hence, the argument of the claimant that these were towards premiums payable to LIC cannot be accepted by this Forum. Therefore, this Forum finds no valid ground to interfere with the decision of LIC to pay the reduced paid up value under the 4 policies and reject the claim under the rest of the Policies. Under the facts and circumstances, the complaint of Mrs. Manju G Gupta for full payment of claim is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 02 of 2004 - 05
Smt. Manjula U. Shah

Vs.
Life Insurance Corporation of India

Award Dated 25.10.2004

Shri Umanglal Thakorlal Shah took an insurance policy on 27.01.2001 from LIC of India, MDO-III and he expired on 17.07.2003 due to Cirrhosis of liver with Uremia Hepatitis & Septicemia with Cardio Respiratory Arrest. The claim was preferred by Smt. Manjula U. Shah, wife of the deceased life assured and the same was repudiated by MDO-III of LIC vide their letter dated 30.09.2003 stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Not satisfied with this decision, the claimant, Smt. Manjula U. Shah made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the DO and the same was conveyed to the claimant. Hence, the claimant approached Insurance Ombudsman requesting this intervention in the matter.

The entire records have been scrutinized. It is observed from the Medical Attendant's Certificate, claim form B and Certificate of treatment-Claim Form 'B1' dated 5.8.2003 issued by Dr. Pankaj R. Dudhwala of Paarth Hospital that the life assured was operated for Pyelonephritis August 2001 and the illness was diagnosed as "Cirrhosis of liver with Uremia with Hepatitis with Hypoglycemia with Septicemia. The door Case Paper of Paarth Hospital made a mention about past history as "Known case of Cirrhosis of Liver-Hypertension -3 years" which shows the duration of illness well before the date of proposal. The insured had not disclosed about his illness at the time of proposal for Insurance. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the same is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 022 of 2004 - 05
Smt. Pushpalata V. Londhe
Vs.

Life Insurance Corporation of India

Award Dated 26.10.2004

Shri Vikas Murlidhar Londhe took an insurance policy on 14.01.95 from LIC of India, Nashik DO and he expired on 16.6.95 due to Jaundice / Viral Hepatitis with Anaemia. The claim was referred by Smt. Pushpalata V. Londhe, wife of the deceased life assured and the same was repudiated by Nashik Do of LIC vide their letter dated 13.1.1997 stating that the deceased life assured withheld correct information regarding his death at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with the decision the claimant Smt Pushpalata V. Londhe made a representation to the Zonal Office of LIC and the Zonal Office upheld the decision of DO. Hence, the claimant approached the Insurance Ombudsman requesting his intervention in the matter.

It is observed from Certificate of Treatment dated 31.5.1996 issued by Dr. Vasantarao S. Karande of primary Health Centre, Niphad that the life assured had first consulted him on 20.3.1995 for chronic Sinusitis with general debility and he was suffering from this disease since one and half years. In the Certificate of Treatment dated 28.09.96, Dr. Shabbir T. Indorewala, ENT Specialist, had mentioned that the deceased life assured had consulted him first in the month of February 1994 and he was suffering from Right Chronic Suppurative Otitis media since childhood and the symptom was ear discharge. As per Certificate of Treatment, claim form B dated 16.6.1995 issued by Dr. Sumant I. Dixit the primary cause was Viral Hepatitis (chronic) and the secondary cause was Anaemia. In the Claim Form B1 dated 8.3.1996, Dr. S. R. Kelkar, Nasik mentioned that the deceased life assured was admitted in his hospital on 12.6.1995 and the diagnosis arrived at was Pulmonary Tuberculosis + Anaemia + Nephritis and he was discharged on 16.6.1995. On going through Employer's Certificate and leave record it is observed that the life assured

Employer's Certificate and leave record it is observed that the life assured took treatment during the period from 20.3.1995 to 31.3.1995 and he was advised to consult Specialist for further treatment for chronic Sinusitis with general debility. Subsequently, he was operated for Bilateral Secretary Otitis Media on 14.4.1995 vide Certificate dated 14.4.1995 issued by DR. S. T. Indorewala, ENT Specialist. The life assured had not disclosed about the nature of illness at the time of proposal for insurance and hence suppression of facts. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the same is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 125 of 2004 - 05
Smt. Anthony A. Raju

Vs.

Life Insurance Corporation of India

Award Dated 28.10.2004

Shri V. Raju had taken two Insurance Policies on 04.03.96 and 06.10.97 respectively from LIC of India, Salary Savings Scheme, Mumbai. The life assured died on 02.01.99 due to Accident; Complications following Head injury and subdural Laematonia. The claim was preferred by Smt. Anthony A. Raju, wife of the deceased life assured and the same was repudiated by Salary Savings Scheme, Mumbai of LIC vide their letters dated 09.03.2002 stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence the claim amount was not payable. Not satisfied with the decision of LIC, Smt. Anthony A. Raju represented to the Zonal Office of LIC and ZO decided to uphold the decision of the Divisional Office and the same was conveyed to her vide DO's letter dated 30.8.2004. Therefore, the claimant approached Insurance Ombudsman by her letter dated 0 6.09.2004 seeking his intervention for settlement of her claim. The records of the case were perused.

It is observed from the leave record submitted by the Employer that the assured was under the treatment of Dr. Virendranath I. Tiwari during the period from 1.2.95 to 1.6.95 for various ailments such as Hepatitis with fever, Gastritis with colic pain which is revealed from the treatment particulars given by the said Doctor vide his certificate dated 11.8.2000. The life assured also submitted certificate dated 10.3.95 from national Clinic to his employer for the treatment he took for Hepatitis with fever from 1.2.95 to 10.3.95. Therefore, it is evident that the life assure had health problem prior to the proposals signed by him. It is also seen from the records and consequent analysis made by this Forum that the deceased life assured was alcoholic and was treated for alcohol withdrawal 3 years before his death at the Port Trust Hospital. It is evident that prior to the proposal for policies, the life assured had health problem, which he had not disclosed to LIC. Under the above circumstances, this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and hence the claim of Smt. Anthony A. Raju is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 041 of 2004 - 05
Smt. Kiran C. Patel

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2004

Shri Chandrakant Vallabhbai Patel took an insurance policy on 24.11.2000 from LIC of Indian, Aurangabad DO and he died on 04.06.2003 due to Cardio Respiratory Arrest. When a claim was preferred by Smt. Kiran C. Patel, wife of the Deceased Life assured, it was repudiated by Aurangabad DO of LIC vide their letter dated 10.11.2003 stating that the deceased life assured, withheld material information regarding his existing insurance

particulars at the time of effecting the insurance with them. While proposing for the policy, he was holding one more policy which was not disclosed by him. He has also given his date of birth wrongly, i.e. he had under-stated his age. Aggrieved by the decision of LIC, the claimant, made a representation to the Zonal office of LIC and Zonal Office decided to uphold the repudiation action by DO. Hence, the claimant approached Insurance Ombudsman requesting his intervention on the matter.

On going through the entire records, it is observed that age was admitted under one policy was on the strength of School Certificate issued by Kumar Taluka School. As per the School Certificate, Date of Birth is 29.04.64. Thus it is clear that the deceased life assured understated his age at the time of submitting proposal under subsequent Policy. He had not disclosed about the earlier policy and correct age. Thus there is suppression of material facts. Under the circumstances this Forum had no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the claim is not sustainable.

Mumbai Ombudsman Centre
Case No. IO / MUM / LI - 076 of 2004 - 05
Smt. Hemanti C. Mehta
Vs.
Life Insurance Corporation of India

Award Dated 5.11.2004

Shri Chetankumar A. Mehta took an in assurance policy on 1.1.02 from LIC of India, Mumbai Divisional Office-IV and he expired on 03.10.2002 due to Cardio Respiratory Arrest due to Falciparum Malaria. The claim was preferred by Smt. Hemanti C. Mehta, wife of the deceased life assured which was repudiated by M DO-IV vide their letter dated 27.01.2004 stating that the life assured had withheld correct information regarding his health at the time of effecting insurance with them and hence nothing is payable. Not satisfied with the above decision of LIC, the claimant made a representation to the Zonal Office of LIC and the Zonal Office upheld the decision and the said decision was conveyed to the claimant by the Divisional Office letter dated 07.07.04. Therefore, Smt. Hemanti C. Mehta, approached the Insurance Ombudsman by her letter dated 30.6.2004, requesting his intervention in the above matter

The entire case paper have been analyzed. Dr. Sharad M. Mehta in his certificate of treatment has mentioned that the life assured was suffering from fever, body pain, shivering, weakness etc. The said doctor had also prescribed certain medicines vide his prescriptions during the period 6.9.02 to 9.9.02. He had also prescribed medicine/ointment for Herpes. Later on the life assured was referred to Dr. Parag C. Ajmera by the said Doctor. In the Medical Attendant's Certificate, Claim Form 'B' dated 31.10.02 Dr. Parag C. Ajmera of Arihant Heart Clinic has mentioned the primary cause of death as "Cardio Respiratory Arrest" and the secondary cause as "Thrombocytopenia with Gastrointestinal bleeding with Malaria" and the symptom was high grade fever with weakness. In the case paper issued by Arihant Heart Clinic dated 2.10.02 Dr. Parag C. Ajmera has mentioned final diagnosis as "Cardio Respiratory Arrest due to Falciparum Malaria". The case paper also reveals that the life assured had past history of Falciparum Malaria in last December, i.e. December 2001 and Herpes Simplex of Trigeminal neve. Thus, it is evident that the evident that the life assured having various illness prior to the proposal for the policy which he had not disclosed to LIC. In the circumstances , this Forum has no valid ground to interfere with the decision to repudiate the claim and the same is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 113 of 2004.05
Smt. Sunanda K. Sandim

Vs.
Life Insurance Corporation of India

Award Dated 9.11.2004

Shri Ramdas Krishna Sandim took an insurance policy on 28.02.2002 from LIC of India, SSS Division, Mumbai and he died on 03.05.2002 due to Haemorrhage / Shock due to Polytrauma. The claim was preferred by Smt. Sunanda K. Sandim, mother & nominee of deceased life assured which was repudiated by LIC, SSS Division, vide their letter dated 28.05.2003 stating that the deceased life assured had withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Not satisfied with the decision, the Complainant made a representation to the Zonal Office of LIC and ZO upheld the decision taken by the DO and the same was conveyed to the claimant vide DO's letter dated 25.03.2004. In view of this, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire records have been scrutinized. In the Claim Form 'B', Dr. Ram Ghotgekar of Bhavani Clinic mentioned the cause of death as "Haemorrhage / Shock due to Polytrauma". The said Doctor in his certificate dated 06.08.99 has stated that the life assured was under his treatment from 06.08.99 as he was suffering from Pulmonary Koch. According to the certificated date 2.10.99 of Dr. R.M. Sundrani of Grant Medical Hospital and Sir J.J. Group of Hospitals, the life assured was admitted in medical ward from 03.09.99 to 07.09.99 for left sided pleural effusion and recommended sick leave due to TB for 2 months from 07.09.99 and further advised check up at the end of two months. In the case paper from J.J. Group of Hospital diagnosis had been mentioned as Lt. Sided pleural effusion (Koch's) with Amaebiosis. It is evident that the life assured was suffering from Amaebiosis and tuberculosis in the year 1999 and he was hospitalized for necessary treatment, i.e. prior to the proposal date of 15.02.2002 and he did not disclose the same at that time of proposing for insurance. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and the same is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 104 of 2004.05
Shri Parasmal Joshi

Vs.
Life Insurance Corporation of India

Award Dated 11.11.2004

Smt. Lila Parashmal Joshi took an insurance policy on 10.12.2000 from LIC of India, MDO-II. The claim was preferred by Shri. Parasmal Joshi, husband and nominee of the deceased life assured and the same was repudiated by MDO-II of LIC vide their letter dated 27.01.2004 stating that the deceased life assured had withheld correct information regarding her health at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with this, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of DO and the same was conveyed to the claimant by DO vide their letter dated 3.7.2004. Hence, Shri Parasmal Joshi approached Insurance Ombudsman requesting his intervention in the matter.

The entire papers have been scrutinized. In the claim form 'B' dated 16.07.03, Dr. Gopal Purohit, Kamla Nehru Chest hospital, Jodhpur has mentioned the primary cause of death of the life assured as "Pulmonary Tuberculosis" and secondary cause as "TBM with Ascites". The life assured had taken treatment from Dr. S. N. Medical College, Jodhpur after necessary testing of sputum, blood etc. In the Certificate of Hospital Treatment dated 2.1.04, Dr. Gopal Purohit has mentioned that the life assured was suffering from pulmonary tuberculosis for the last 7 years. It is evident that at the time of proposing for the policy, the life assured was already suffering from tuberculosis, which she did not disclose. In the

circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the same is not sustainable.

**Mumbai Ombudsman Centre
Case No.LI - 106 of 2004.05
Smt. Kalpana V. Chandorkar
Vs.**

Life Insurance Corporation of India

Award Dated 16.11.2004

Shri Vijay Chimaji Chandorkar took an insurance policy on 17.1.2000 from LIC of India, SSS Division, Mumbai and he died on 13.8.2000 due to Discriminated intravascular Coagulation in case of Septicaemia. The claim was preferred by Smt. Kalpana V. Chandorkar wife of the deceased life assured which was repudiated by LIC, SSS Division, Mumbai vide their letter dated 30.9.2003 stating that the deceased life assured had withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Not satisfied with this decision, the Complainant made a representation to the Zonal Office of LIC and ZO upheld the decision taken by the DO and the same was conveyed to the claimant vide DO's letter dated 29.06.2004. In view of this, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The records available were scrutinized and it is observed that the maximum limit for sum assured under Bima Kiran Plan is Rs. 3,00,000/-, which is basically a high risk plan with low rate of premium. The life assured had already insured himself under Bima Kiran Plan for RS. 1,00,000/- under his previous Policy in the year 1999 the fact of which was not disclosed by him while taking insurance for Rs. 3,00,000/- under Bima Kiran Plan. Since the maximum permissible limit for sum assured under Bima Kiran Plan is Rs. 3,00,000/- the claim under the above policy was repudiated by LIC for non-disclosure of material facts. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore the claim of Smt. Kalpana V. Chandorkar for payment of full sum assured under Bima Kiran of deceased life assured Shri. Vijay Chimaji Chandorkar is not sustainable.

**Mumbai Ombudsman Centre
Case No. Li - 121 of 2004.05
Smt. Savitri Devi Singh
Vs.**

Life Insurance Corporation of India

Award Dated 16.11.2004

Shri Amarjeet Singh took an insurance policy on 24.08.2002 from LIC of India, MDO-II and he died on 27.08.2002 due to Shock following Haemorrhagic Myocardial Infarction in a case of Rheumatic heart disease. Smt. Savitri D. Singh, wife of the deceased life assured preferred the claim against LIC and the same was repudiated by LIC of India, MDO-II stating that the life assured withheld material information regarding his age at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with the decision of LIC, the claimant made a representation to the Zonal Office and ZO decided to uphold the decision of DO and the same was conveyed to the claimant vide DO's letter dated 29.09.09. Hence , the claimant approached Insurance Ombudsman requesting his intervention in the matter.

In the Cause of Death Certificate, Sion Post -Mortem Centre, Dept. of Forensic Medicine & Toxicology, LTM Medical College, Sion, Dr. Prashant Samberkar, Medical Officer hs certified that the life assured died due to "Shock Following Acute Haemorrhagic Myocardial Infarction in a case of Rheumatic Heart Disease" on 27.08.2002. Rheumatic Heart Disease

normally develops in childhood. Thus the life assured had not disclosed about his illness and also actual age at the time of proposal for insurance. The life assured had not disclosed about his actual age and illness to LIC. LIC felt that correct declaration of age would have automatically called for ECG report of which they were deprived and thus it proved to be the material information for them which was suppressed. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the same is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 196 of 2003.04
Smt. Rekha S. Jadhav**

Vs.

Life Insurance Corporation of India

Award Dated 17.11.2004

Shri Sanjay Annappa Jadhav took two insurance policies on 28.11.2000 and 28.03.01 respectively from LIC of India, Kolhapur Do and he died on 02.02.2002 due to Cardio Respiratory Failure due to Congestive Cardiac failure with Liver Cirrhosis. The claim under both the policies was preferred by Smt. Rekha S. Jadhav, wife of the deceased life assured which was repudiated by Kolhapur DO vide their letters dated 26.09.2002 stating that the life assured had withheld correct information regarding his health at the time of effecting insurance with them and hence nothing is payable. Not satisfied with this, the complainant made a representation to the Zonal Office of LIC and the Zonal Office upheld the decision taken by the DO and the same was conveyed to the claimant by DO. In view of this, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire case papers have been analyzed. In the Claim Form B dated 24.06.02 the Medical Officer of Rural Hospital Kodek, Kolhapur has mentioned that primary cause of death of the life assured was "Cardio respiratory Failure due to Congestive cardiac failure with liver cirrhosis" and he was chronic alcoholic for the last 4 years. In the Claim Form B-1 dated 24.06.02 the Medical Officer of the Rural Hospital has further mentioned that the life assured was under the treatment of Dr. S.M. Maheshwari for chronic pain in abdomen, vomiting, loose motions etc for last 6 months and the date of admission in the said hospital was on 02.02.02. In the Form No. 5152 Dr. Mahaveer A . Patil stated that the life assured consulted him in June 2001 and he was suffering from pain in abdomen, vertigo since January 2000 and life assured was under his treatment for loss of appetite, pain in abdomen etc from 23.03.99 to 28.03.01. The Claim Form E revealed that the life assured was on sick leave on various occasions during the period from 28.09.96 to 02.02.02. Dr. Kumar A. Malwade, Kolhapur has issued a certificate dated 29.05.98 stating that the life assured was suffering from Hip joint pain and was under his treatment from 28.04.98 to 29.05.98. The life assured took leave on medical ground from 3.3.98 to 12.03.98 and 12.02.2000 to 4.01.2001 for Upper Respiratory Tract Infection (URTI) for which he was under treatment from Dr. M. A. Patil. It is evident from the above that the life assured was suffering from various ailments prior to the proposals the fact of which he had not disclosed and hence suppression of material facts. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the same is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 231 of 2004.05
Shri Vishwesh L. Lele**

Vs.

Life Insurance Corporation of India

Award Dated 18.11.2004

Shri Deepak Vishnu Jogalekar had taken an Insurance Policy on 1.11.00 from LIC of India, Satara Divisional Office. The life assured died on 10.11.02 due to Tuberculosis / Cryptococcal / Meningitis due to Retroviral Disease. The claim was preferred by Shri Vishwesh L. Lele, nominee of the deceased life assured which was repudiated by Satara Divisional Office vide their letter dated 31.3.03 stating that the life assured had withheld correct information regarding his health condition at the time of effecting insurance with them and hence the claim amount was not payable. Not satisfied with the decision of LIC, Shri Vishwesh L. Lele represented to the Zonal Office of LIC and ZO decided to uphold the decision of the Divisional Office and the same was conveyed to him vide DO letter dated 28.11.03. Hence, the claimant approached Insurance Ombudsman by his letter dated 28.1.04 seeking his intervention for settlement of his claim. The records of the case were perused.

The entire case papers have been analyzed. As per the Medical Attendant's Certificate dated 28.03.2002 issued by Dr. V. K. Karmarkar, the primary cause of death was "Tubercular Cryptococcal / Meningitis and the secondary cause was Retroviral disease". In the Certificate dated 3.3.03 issued by Dr. V. K. Karmarkar who happened to be family Doctor of the insured since 1970 has mentioned that the insured was diagnosed in March 02, to have Tubercular Meningitis and on investigation was detected to have Retro Viral Disease (R.V.D). Dr. Nathaniel Sase, in the Certificate of Hospital Treatment dated 25.11.2002, mentioned that the insured was admitted in the Hospital on 9.8.02 and the diagnosis arrived at the Hospital was "Retroviral disease with Cyptococcal Meningitis" and the said Doctor has also mentioned that the insured was admitted twice in the month of May 2002 and the life assured was a "Known case of Retroviral disease since 1993 with Headache, fever & loss of appetite". The detection Retro Viral Disease entails lot of examination and analysis and the fact that it was done in 1993 proves the point of the gravity of the disease. Later the cryptococcal / tubercular Meningitis also refers to a systemic fungus infection that normally attack brain and meninges over a period. All these suggest preexistence of the ailments before the proposal, which were not disclosed to LIC at that time. Under the circumstances, this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and therefore the claim of Shri Vishwesh L. Lele is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI- 230 of 2003.04
Shri Laxman S. Lele**

Vs.

Life Insurance Corporation of India

Award Dated 19.11.2004

Shri Deepak Vishnu Jogalekar had taken an Insurance Policy on 7.11.00 from LIC of India, Satara Divisional Office. The life assured died on 10.11.02 due to Tuberculosis / Cryptococcal / Meningitis due to Retroviral Disease. The claim was preferred by Shri Laxman S. Lale, nominee of the deceased life assured which was repudiated by Satara Divisional Office vide their letter dated 31.3.03 stating that the life assured had withheld correct information regarding his health condition at the time of effecting insurance with them and hence the claim amount was not payable. Not satisfied with the decision of LIC, Shri Laxman S. Lale represented to the Zonal Office of LIC and ZO decided to uphold the decision of the Divisional Office and the same was conveyed to him vide DO letter dated 28.11.03. Hence, the claimant approached Insurance Ombudsman by his letter dated 28.1.04 seeking his intervention for settlement of his claim. The records of the case were perused.

The entire case papers have been analyzed. As per the Medical Attendant's Certificate 28.03.2002 issued by Dr. V. K. Karmarkar, primary cause of death was "Tubercular Cryptococcal / Meningitis and the secondary cause was Retroviral disease". In the

Certificate dated 3.3.03 issued by Dr. V. K. Karmarkar who happened to be family Doctor of the insured since 1970 has mentioned that the insured was diagnosed in March 02, to have Tubercular Meningitis and on investigation was detected to have Retro Viral Disease (R.V.D). Dr. Nathaniel Sase, in the Certificate of Hospital Treatment dated 25.11.2002, mentioned that the insured was admitted in the Hospital on 9.8.02 and the diagnosis arrived at the Hospital was "Retroviral disease with Cyptococcal Meningitis" and the said Doctor has also mentioned that the insured was admitted twice in the month of May 2002 and the life assured was a "Known case of Retroviral disease since 1993 with Headache, fever & loss of appetite". The detection Retro Viral Disease entails lot of examination and analysis and the fact that it was done in 1993 proves the point of the gravity of the disease. Later the cryptococcal / tubercular Meningitis also refers to a systemic fungus infection the normally attack brain the meninges over a period. All these suggest preexistence of the ailments before the proposal, which were not disclosed to LIC at that time. Under the circumstances, this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and therefore the claim of Shri Laxman S. Lale is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI-269 to 2004.05**

Smt. Nalini D. Kamble

Vs.

Life Insurance Corporation of India

Award Dated 23.11.2004

Shri Dilip Nana Kamble had taken an insurance policy on 15.10.2000 from LIC of India, Satara Divisional Office on 15.1.2002. The life assured suicided on 20.05.2002. The claim was preferred by Smt Nalini D. Kamble, wife of the deceased life assured which was repudiated by Satara Divisional Office vide their letter dated 19.03.2003 stating that the life assured had withheld correct information regarding his health condition at the time of effecting insurance with them and hence the claim amount was not payable. Not satisfied with the decision of LIC, Smt Nalini D. Kamble represented to the Zonal Office of LIC and the Zonal Office upheld the decision taken by the Divisional Office and the same was conveyed to her vide letter dated 29.01.2004. Hence, the claimant approached the Insurance Ombudsman by her dated 06.03.2004, requesting his intervention in the above matter.

The entire case papers have been analyzed. As per Post Mortem Report cause of death was Death due to Asphyxia due to hanging. From the Certificates submitted to the employer by the life assured alongwith leave application, it is observed that Dr. Sanjay S. Patil of Shree Clinic had issued certificates dated 4.2.1997 and 19.01.2000 in which he had stated that the life assured was under his treatment for hypertension. According to the certificate dated 5.6.02 issued by Krishna Hospital & Medical Research Centre, Karad, the life assured was under their treatment for Giddiness, Acute chronic diarrhea etc for the period from 9.6.93 to 15.3.93. In the Claim form No. 5152 dated 20.10.02, Dr. Sanjay S. Patil mentioned that since last 4 years the life assured was suffering from depression, hypertension with headache, giddiness etc and the first consultation by the insured during last illness was in the year 2001. From the above it is clear that there was pre-existence of ailments before the proposal. Under the circumstances, this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and therefore the claim of Smt. Nalini D. Kamble is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 145 of 2004.05**

Kum. Padma Rupam Shah

Vs.

Life Insurance Corporation of India

Award Dated 29.11.2004

Shri Manilal Hansraj Bhathara took an insurance policy on 15.12.2001 from LIC of India, Mumbai DO-II and he died on 05.08.2003 due to Acute Cardio Respiratory Arrest. Kum Padma R. Shah, Nominee and Grand - daughter of the deceased life assured preferred the claim and the same was repudiated by Mumbai DO-II of LIC vide their letter dated 24.03.2004 stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Not satisfied with this decision, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the Divisional Office and the same was Conveyed to the claimant vide DO letter dated 03.07.2004. Therefore, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire case papers have been scrutinized. In the Certificate of Treatment dated 27.10.03 issued by Dr. M. Vishwanathan, Cardiologist it had been mentioned that the life assured was suffering from breathlessness and Ischaemic Heart Disease since 1989 and the symptom of illness was Dyspnoea. He has also stated that the insured was treated at Universal / Jaslok Hospital and Cardiac Angiography was done. According to Investigation Report dated 31.01.04, the life assured was admitted in Jaslok Hospital in the year 1984 for heart problem and had by-pass surgery in the said hospital. The deceased life assured had undergone for Angiography in the year 2002, which was meant for detecting exact blockages and other heart problems. The insured had not disclosed about his illness to LIC at the time of proposal. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate full claim for the sum assured and pay only 95% of the Single Premium as per their approved internal guidelines. Therefore the claim of Kum. Padma R. Shah for the sum assured under the policy on the life of Shri. Manilal Hansraj Bhathara is not sustainable. Payment of 95% of the Single Premium is in order.

Mumbai Ombudsman Centre

Case No. LI-149 of 2004.05

Smt. Chitra N. Palekar

Vs.

Life Insurance Corporation of India

Award Dated 29.11.2004

Shri Nandkishor Mangesh Palekar took an insurance policy on 25.11.02 from LIC of India, Thane DO and he died on 28.05.2003 due to Cardio Respiratory arrest. The claim was preferred by Smt. Chitra N. Palekar, wife of the deceased life assured and this was repudiated by Thane DO of LIC vide their letter dated 18.11.2003 stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with this decision, the claimant made a representation to the Zonal Office of LIC and Zonal office decided to uphold the repudiation action by DO and the same was conveyed to the claimant by DO. Hence, Smt. Chitra N. Palekar approached Insurance Ombudsman requesting his intervention in the matter.

On scrutiny of the case papers obtained from Bombay Hospital, it is revealed that the life assured had the history of polycystic kidney since childhood. He had also occasional breathlessness and problems of aortic disfunction. He was admitted to Bombay Hospital and on examination Doctors advised him for MRI, Angio and USG- Abdomen etc as he was having chest pain radiating to left side and back. Ultrasound Dept of Bombay Hospital in their report dated 5.4.03 concluded that the life assured was having "Suspicious small gall stones & polycystic kidneys". The insured was admitted on 9.4.03 in Cardinal Gracias Memorial Hospital and from the records it is understood that the life assured was a chronic smoker with polycystic kidneys since childhood with a strong family history. The Insured died of aortic aneurysm finally and the analysis of aortic aneurysm refers to abnormal dilatation of a blood vessel, usually an artery due to a congenital defect or weakness in the wall of the vessel. It is therefore fairly certain that the insured had some problems, which

were not disclosed. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the same is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI-032 of 2004.05
Smt. Poornima G. Gedam**

Vs.

Life Insurance Corporation of India

Award Dated 30.11.2004

Shri Suresh Ganpatrao Gedam took two insurance policies on 28.03.95 and 01.04.93 from LIC of India, Nagpur DO and he died on 19.11.97 due to Cardio Respiratory Arrest. The claim was referred by Smt. Poornima S. Gedam, wife of the deceased life assured which was repudiated by Nagpur DO vide their letter dated 27.5.2000 and 28.06.2000 respectively stating that the life assured had withheld material information regarding his health at the time of effecting insurance with them and therefore nothing is payable. Not satisfied with this decision, the Complainant made a representation to the Zonal Office of LIC and the ZO upheld the decision taken by the DO and the same was conveyed to the claimant vide letter dated 31.03.2004 by DO. In view of this, Smt. Poornima G. Gedam, approached the Insurance Ombudsman requesting his intervention in the matter.

The entire case papers have been analyzed. In the claim Form No. B, Dr. Vikas V Bisne of Bisne Heart Clinic, Nagpur had mentioned that the life assured was suffering from Diabetes Mellitus since 1992 and Coronary Angiography was done at Apollo Hospital, Hyderabad. Before admission in the Heart Clinic for acute inferior wall infarction on 28.4.96, he was treated for Ischemic Heart Disease and Diabetics Mellitus. As per claim form B, the primary cause was Acute Myocardial Infarction and the secondary cause was Diabetes Mellitus. The Certificate by Employer dated 19.07.97 also mentioned that the life assured was on sick leave on various dates from 1993 to 1997 which did prove that he was not enjoying good health. All these amount to suppression of material information about the life assured's health. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the same is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 158 of 2004.05
Shri Tejpal Mansing Aware**

Vs.

Life Insurance Corporation of India

Award Dated 30.11.2004

Smt. Shailaja Tejpal Aware took an insurance policy on 28.07.02 from LIC of India, Satara DO and she died on 24.10.2002 due to Chronic Renal Failure due to Hypertension, LVF, Acidosis. The claim preferred by Shri Tejpal M. Aware, husband of the deceased life assured, was repudiated by Satara DO of LIC of India vide their letter dated 31.03.2004 stating that the life assured had withheld correct information regarding her health condition at the time of effecting insurance with them and hence nothing is payable. Not satisfied with this decision, the Complainant made a representation to the Zonal Office of LIC and the ZO upheld the decision taken by the DO and the same was conveyed by DO to the claimant. In view of this Shri Tejpal M. Aware, approached the Insurance Ombudsman requesting his intervention in the matter.

The entire case papers have been analyzed. As per Claim Form 'B' dated 04.02.04 primary cause of death of the deceased life assured was due to "chronic renal failure" and

secondary cause was "hypertension, LVF, Acidosis etc". These diseases were detected first in June 2002. In the Claim Form B-1 dated 04.02.04 from Lokmanya hospital the same history as mentioned in claim from B is confirmed. As per claim form No. 5152 completed by DR. A. D. Nikam, Pune, the life assured was suffering from Chronic Renal Failure with hypertension since 7th March, 2001 and the symptoms of the illness were Edema on feet and face. It is revealed from the case paper of Aditya Hospital and Healing Center, Pune that the life assured had consulted Doctor on 3.3.01 for "Bilateral Chronic Renal Parenchyma" and again on 18.06.02 and had undergone Sonography of Abdomen and Pelvis and the findings were bilateral small and ecogenic kidney, chronic renal. Obviously there have been a clear non-disclosure and suppression of material facts. In the circumstances this Forum had no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and the same is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 005 of 2004.05
Smt. Vijayalaxmi Anant Shinde
Vs.
Life Insurance Corporation of India**

Award Dated 1.12.2004

Shri Anant Gopalrao Shinde took a Life Insurance policy, particulars of which have been noted in the Preamble of the Award, expired on 27.08.2003 due to Myocardial Infarction . When a claim was preferred by the nominee, Smt. Vijayalaxmi Shinde, Life Insurance Corporation of India Repudiated the claim vide letter dated 30.12.2003 on account of Shri Shinde having withheld material information from them regarding his health at the time of effecting the assurance, by not disclosing the fact of consumption of alcohol and tobacco while replying to Q. No. 11 (h) of the proposal form. Not satisfied by the above decision, Smt. Vijayalaxmi Shinde's represented to the Zonal Manager, Western Zone of Life insurance Corporation of India for reconsideration of the decision but they reiterated their decision of repudiation. Aggrieved by the decision, Smt Shinde approached the Insurance Ombudsman for intervention in the matter. The records have been perused and parties to the dispute were called.

On an analysis of the entire records, it is revealed from the Indoor Case Sheet of Dr. K.H. Jituri Hospital, Hosur Cross, Hubli that the insured was having history of "Alcoholic & Smoking -15 years" It is also recorded in the case paper the provisional diagnosis "Acute3 ASMI c types 2 DM" and the final diagnosis as "Alcoholic Hepatitis + Alcohol withdrawal (+LVF)". It is evident that the deceased life assured was an alcoholic since last many years which was not disclosed at the time of filing the proposal form. The complaint before this Forum is for non-payment of death claim under the Policy No. 942848861 on the ground of non-disclosure of a material facts vital to the contract and in the fact and circumstances of the case, the decision of Life Insurance Corporation of Indian to repudiate the claim is upheld.

**MUMBAI Ombudsman Centre
Case No. LI - 151 of 2004.05
Smt. Vaishali H. Mandlik
Vs.
Life Insurance Corporation of India**

Award Dated 2.12.2004

Shri Harishchandra Sitaram Mandlik took 4 insurance policies from LIC of India, SSS Division on various dates from March 2000 to March 2001 and he died on 3.3.03 due to Cardio Respiratory Arrest caused by pulmonary edema due to chronic renal failure. When a claim was preferred by Smt. Vaishali H. Mandlik, wife of the deceased life assured the same was repudiated by SSS Division of LIC vide their letter dated 22.02.04 stating that

the deceased life assured withheld material information regarding his health prior to the time of effecting the insurance and hence nothing is payable. Dis-satisfied with this decision, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the repudiation action by DO, under the policies and the same was conveyed to the claimant by the DO letter dated 18.08.04. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the above matter.

On scrutiny of the records it is observed from the Certificate of Treatment dated 19.06.03 issued by Dr. Phalle Anil, the life assured first consulted him in June 1997 for viral fever and Upper Respiratory Tract Infection. He has also mentioned that the insured was consulting him on / off since then for URTI, LRTI etc. In the Claim Form 'B' dated 29.4.03 Dr. N.V. Deo, Talegaon General Hospital mentioned that the primary cause of death was "Abdominal Tuberculosis" and the secondary cause was "Pancreatitis with ICH". Case record of Dr. Bhansabeh Sardesai, Talegaon Rural hospital reveals that the insured was suffering from abdomen Koch's disease and X-Ray of Chest was taken on 27.09.2000. As per the discharge Certificate, the insured was found to be HIV + ve. As per certificate dated 05.11.1997 of Dr. K.H. Shah, the insured was under his treatment for Herpes since 7.11.1997. The insured had not disclosed about his illness in the proposal forms for insurance. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the claim is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 176 of 2004.05

Shri. Gajanan R. Patil

Vs.

Life Insurance Corporation of India

Award Dated 6.12.2004

Shri Ramchandra Mahadeo Patil took an insurance Policy on 2.4.02 from LIC of India, Thane Divisional Office and he expired on 15.11.2003 due to Cardio Respiratory Failure / Diabetes Mellitus. The claim was preferred by Shri Gajanan R. Patil, son of the deceased life assured which was repudiated by Thane DO of LIC vide their letter dated 11.04.2004 stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with this decision, the claimant made a representation to Zonal Office of LIC and ZO decided to uphold the decision of DO and the said decision was conveyed to the claimant by the DO vide letter dated 09.09.04. Hence, the claimant approached Office of the Insurance Ombudsman by his letter dated 04.10.2004 requesting for his intervention in the above matter.

The case papers were scrutinized. In the Claim Form B1, Dr. Sidharth Patil mentioned that the life assured was admitted in the hospital on 16.10.03 for the complaint of Diabetic Gangrene with Septicemia. From Claim Form E, it is revealed that the insured remained absent on medical ground on various occasions. Dr. Suhas N. Mhatre in his certificate dated 25.02.99 mentioned that the life assured was suffering from viral fever since 15.02.99 and was advised to take rest for 11 days from 15.02.99 to 25.02.99. Again a certificate dated 16.08.99 has been issued to him as he was suffering from Malaria and advised rest for 15 days from 02.08.99 to 16.08.99 . The said Doctor has further issued a certificate dated 6.2.2000 to the life assured for taking rest from 21.02.00 to 06.03.00 due to fever. Dr. Kiran C. Mhatre issued a certificate dated 21.10.01 as the life assured was suffering from Essential Hypertension with Diabetes Mellitus with Urinary Tract Infection. The said Doctor had treated him as Outpatient and advised rest for 19 days from 3.10.01 to 21.10.01. Again another certificate had been issued by the same Doctor advising the life assured to take rest for 16 days from 18.02.02 to 9.3.02 due to Diabetes mellitus with

Essential Hypertension with Ischemic Heart Disease. From the above it is evident that the life assured was suffering from various illness prior to the proposal for the policy. In the circumstance this Forum had no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the same is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 175 of 2004.05

Smt. Rajani R. Patil

Vs.

Life Insurance Corporation of India

Award Dated 6.12.2004

Shri Ramchandra Mahadeo Patil took an insurance Policy on 2.4.02 from LIC of India, Thane Divisional Office and he expired on 15.11.2003 due to Cardio Respiratory Failure / Diabetes Mellitus. The claim was preferred by Smt Rajani R. Patil, wife of the deceased life assured which was repudiated by Thane DO of LIC vide their letter dated 11.04.2004 stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with this decision, the claimant made a representation to Zonal Office of LIC and ZO decided to uphold the decision of DO and the said decision was conveyed to the claimant by the DO vide letter dated 09.09.04. Hence, the claimant approached Office of the Insurance Ombudsman by his dated 04.10.2004 requesting for his intervention in the above matter.

The case papers were scrutinized. In the Claim Form B1, Dr. Sidharth Patil mentioned that the life assured was admitted in the hospital on 16.10.03 for the complaint of Diabetic Gangrene with Septicemia. From Claim Form E, it is revealed that the insured remained absent on medical ground on various occasions. Dr. Suhas N. Mhatre in his certificate dated 25.02.99 mentioned that the life assured was suffering from viral fever since 15.02.99 and was advised to take rest for 11 days from 15.02.99 to 25.02.99. Again a certificate date 16.08.99 has been issued to him as he was suffering from Malaria and advised rest for 15 days from 02.08.99 to 16.08.99 . The said Doctor has further issued a certificate dated 6.2.2000 to the life assured for taking rest from 21.02.00 to 06.03.00 due to fever. Dr. Kiran C. Mhatre issued a certificate dated 21.10.01 as the life assured was suffering from Essential Hypertension with Diabetes Mellitus with Urinary Tract Infection. The said Doctor had treated him as Outpatient and advised rest for 19 days from 3.10.01 to 21.10.01. Again another certificate had been issued by the same Doctor advising the life assured to take rest for 16 days from 18.02.02 to 9.3.02 due to Diabetes mellitus with Essential Hypertension with Ischemic Heart Disease. Form the above it is evident that the life assured was suffering from various illnesses prior to the proposal for the policy. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the same is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 173 of 2004.05

Smt. Yogita Rajan Dhuri

Vs.

Life Insurance Corporation of India

Award Dated 8.12.2004

Shri Rajan Babu Dhuri took an insurance policy on 20.3.98 from LIC of India, SSS Division, Mumbai and he died on 26.06.1999 due to Pulmonary Tuberculosis in a case of HIV +ve (AIDS) (Natural). The Claim was preferred by Smt. Yoigita R. Dhuri, wife of the deceased life assured and the same was repudiated by SSS Division of LIC vide their letter dated 28.07.2003 stating that the deceased life assured withheld material information regarding

his health at the time of effecting the insurance with them and hence nothing is payable. Not satisfied with this decision the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the repudiation action by DO and the same was conveyed to the claimant by DO. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

In the Claim Form B-1 dated 12.1.2003 issued by Dr. S. S. Pandit it is mentioned that the life assured was admitted in the Hospital on 4th November, 1996 and was treated as an Outpatient for cough, cold fever, loss of appetite, etc., for one month and the diagnosis arrived at the Hospital was Chronic Bronchitis, Kochs' and he was advised to take treatment and rest for one month. The said Doctor issued another certificate dated 12.01.2003 stating that the life assured was suffering from Pulmonary tuberculosis (Koch's) and was advised to take treatment. Dr. Saish R. Choudhari mentioned that the life assured first consulted him on 15.5.1999 for Hepatitis and treatment was given upto 22.5.99. Dr. S.S. Bhakare mentioned that the life assured had first consulted him on 27.05.1999 and the nature of illness was Infective Hepatitis since last 3 weeks and was advised complete bed rest for one month form 27.05.1999. According to Claim Form B dated 16.02.2000 issued by Dr. Padeep Shetty of J.J. Hospital the primary cause of death was "Pulmonary Tuberculosis in HIV Positive" (AIDS) (Natural). The Employer issued Certificate dated 13.04.2000 stating that the life assured last attended duty on 14.02.99 and he was on and off on leave from 1.1.95 to 20.3.98. The deceased life assured was on sick leave from 4.11.1996 to 6.12.96 due to chronic bronchitis. He was also suffering from acute amoebic colitis during the period 5.2.98 to 10.2.98. The life insured had not disclosed about his illnesses at the time of proposing for the policy. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the claim is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 142 of 2004.05
Smt. Jayashree J. Ramane
Vs.**

Life Insurance Corporation of India

Award Dated 13.12.2004

Shri Jayanta Janu Ramane took an insurance policy on 28.09.2001 from LIC of India, Thane Divisional Office and he died on 5.5.03 due to Pulmonary Koch with Anemia. The claim was preferred by Smt. Jayashree J. Ramane, wife of the deceased life assured and the same was repudiated by Thane D.O. of LIC vide their letter dated 31.03.2004/12.04.2004 stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Dis-satisfied with this, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of D.O. and the said decision was conveyed to the claimant on 27.08.04. Hence, Smt. Jayashree J. Ramane approached Insurance Ombudsman requesting his intervention in the above matter.

The case papers were scrutinized. It is observed from the Certificate of Treatment issued by Dr. D. S. Gupta that the deceased life assured had reported the history of Sero Positive (24th May, 1998) and was under treatment of the said Doctor for the period from 19.02.03 to 04.05.03 for Pulmonary Koch with Anaemia. In the Medical Attendant's Certificate dated 14.07.03 issued by Dr. Gupta and in the claim Enquiry Report dated 14.10.03 submitted by Sr. Branch Manager, the same facts are mentioned. The primary cause of death was Pulmonary Koch's, however Anaemia with Sero positive contributed as secondary cause of death. The insured did not disclose about his nature of illness or health status at the time of proposal for insurance. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the claim is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 129 of 2004.05
Smr. Surekha Rajkumar Keripale
V/s
Life Insurance Corporation of India

Award Dated 14.12.2004

Shri Rajkumar Baburao Keripale expired on 9.5.2003 due to Myocardial Infarction with Pulmonary Oedema with Acute Renal Failure. When a claim was preferred by the nominee, Smt. Surekha Keripale, Life Insurance Corporation of India repudiated the claim on account of Shri Keripale having withheld material information from them regarding his health at the time of effecting the insurance, by not disclosing the fact that he had availed sick leave on medical ground for 30 days and 40 days while replying to Q.No. 11(a) (c) (g) and (i) of the proposal form. Not satisfied by the above decision, Smt. Surekha Keripale represented to the Zonal Manager, Western Zone of Life Insurance Corporation of India for reconsideration of the decision but they reiterated the decision of repudiation of Divisional Office. Aggrieved by the decision, Smt Keripale approached the Insurance Ombudsman for intervention of the Ombudsman in the matter of settlement of her claim.

The record have been perused and parties to the dispute were called. In the light of the records produced it is evident that the deceased life assured was occasional alcoholic and was suffering from Blunt Trauma to the shoulders and also Upper Respiratory Tract Infection which was not disclosed at the time of filing the proposal form. The life Assured died of multiple ailments like Myocardial with Pulmonary Oedema and Acute renal failure. It is evident that all these diseases had long periods to set in and the initial manifestation could be in any form like Upper Respiratory Tract Infection which evidently was not disclosed. In this case there was clear suppression that Shri Keripale had undergone some treatment which was not informed to LIC. Had he disclosed about his leave taken on sick grounds and his habit of taking alcohol, LIC would had called for Special Reports and decided the terms of acceptance of the proposal accordingly.

In the facts and circumstances of the case, the decision of Life Insurance Corporation of India to repudiate the claim is upheld.

Mumbai Ombudsman Centre
Case No. LI - 159 of 2004.05
Shri. Chetan S. Lulla
Vs.
Life Insurance Corporation of India

Award Dated 15.12.2004

Smt Mala Chetan Lulla took an insurance policy on 15.9.96 from LIC of India, Thane DO and she died on 17.06.1999 due to Chronic Interstitial lung disease. The claim was preferred by Shri Chetan S. Lulla, husband of the deceased life assured and the same was repudiated by Thane DO of LIC vide their letter dated 24.03.2004 stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by the above decision of LIC, the claimant made a representation to the Zonal Office of LIC and the ZO decided to uphold the decision of DO and the said decision was conveyed to the claimant by the DO. Hence the claimant approached Office of the Insurance Ombudsman requesting his intervention in the matter.

The case papers were scrutinized. As per Certificate of Hospital Treatment dated 21.11.03 issued by Jaslok Hospital the diagnosis arrived at was "acute lung injury secondary to chronic interstitial lung disease with septicemia". She was admitted in the said hospital on 15.06.99 and the next day she passed away. From the Medical Attendant's Certificate issued by Dr. Hiralal G. Desai, Jaslok Hospital it is revealed that the life assured had

history of Appendectomy 15 years back and the history of diarrhoea for 10 years and was known case of Tropical Sprue. Dr. A.S. Chitins of Jaslok Hospital issued a certificate dated 2.12.2003 stating that the deceased life assured was seen by him on 15.6.99 for symptoms of fever and cough of 4 days duration. She was treated for pulmonary tuberculosis 8 years back and her clinical picture during her admission was suggestive of "diffuse interstitial pulmonary disease with super added infection", which led to acute lung injury to which she succumbed on 17.06.99. The life assured had not disclosed about the illnesses at the time of making the proposal. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the for the sum assured and hence the claim is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 235 of 2004.05

Smt. Nanda V. Zinge

Vs.

Life Insurance Corporation of India

Award Dated 16.12.2004

Shri Vijay Shankarrao Zinge took 4 insurance policies on various dates from 1994 to 1996 from LIC of India, Amravati DO and he died on 21.03.02 due to Tuberculosis with Immuno deficiency. The claim was preferred by Smt Nanda V Zinge, wife of the deceased life assured and the same was repudiated by Amravati DO under two policies vide their letter dated 18.03.04 stating that the deceased life assured withheld correct information regarding his health at the time of submitting proposals for insurance. In respect of one Policy which was received on 01.10.01 LIC has declared revival null and void since the insured did not disclose in the Declaration of Good Health about his previous illness viz. Tuberculosis, lymphadenitis which he suffered before date of revival. Under another one policy - Bima Kiran Plan LIC has returned the premium as notional paid up value as 11 gap premiums were there. Aggrieved by the above decision of LIC, complainant made a representation to the Zonal Office of LIC and ZO upheld the decision taken by the DO and the same was conveyed to the claimant by the DO.

The entire case papers have been analyzed. In the Claim Form No. B dated 26.10.02 and Certificate of hospital treatment Claim Form B1 dated 03.03.03 Dr. S.M. Patil made a mention that the life assured first consulted him on 25.12.99 and the cause of death was "Tubercular Lymphadenitis with "Chronic Colitis with Immuno deficiency". Dr. Patil has also mentioned that the insured was suffering from these illnesses since 2 years and 3 months and he had treated the insured from 25.12.99 to 25.01.02. From the Claim Form E dated 27.09.98 it has been observed that the life assured was frequently absent from duty during the period from 27.09.98 to 21.03.02. The life insured had not disclosed about his illness at the time of submission of proposals and Form of Declaration regarding good health. All these amount to suppression of material information about the life assured's health. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore the claim of Smt. Nanda V. Zinge is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 096 of 2004.05

Smt. Nita Bhimrao Urade

Vs.

Life Insurance Corporation of India

Award Dated 21.12.2004

Shri Bhimrao Govinda Urade took 5 insurance policies from LIC of India, Nagpur DO on various dates in the year 2003 and he died on 6.8.03 due to Cardio Respiratory Arrest. The

claim was preferred by Smt. Nita B. Urade, wife of the deceased life assured and the same was repudiated by Nagpur D.O. of LIC vide their letters dated 09.01.04 & 11.01.04 respectively stating that the deceased life assured withheld material information regarding his health at the time of effecting insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the complainant made a representation to the Zonal Office of LIC and Zonal Office upheld the decision taken by the DO and the same was conveyed to the claimant vide letter dated 28.06.04 by the DO.

The entire case papers have been analysed. It is revealed from the ICCU Discharge Card of District General Hospital, Gadchiroli that the life assured was admitted in the hospital on 9.4.98 and was treated and discharged on 13.04.98. The life assured late Shri Bhimrao Urade was diagnosed to have hypertension with libido problem. There was also a remark about the patient being a "known case of hypertension". On going through Employer's Certificate it is observed that the insured took leave on medical ground and Dr. S.B. Kumbhare issued a certificate dated 5.8.99 stating that the life assured was under his treatment since 5.8.99 for hypertension with G.D. Anaemia. On close study of the hospital records, it is established that the insured was suffering from hypertension since 1998, which was well before the date of submission of proposals by the life assured. All these amount to deliberate non-disclosure of material facts about health of the deceased life assured which was vital to the contract. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore the claim of Smt. Nita B. Urade for payment of full sum assured under various policies on the life of Shri. Bhimrao Govinda Urade is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 169 of 2004.05
Smt. Sumanbai Manohar Nikale
Vs.**

Life Insurance Corporation of India

Award Dated 23.12.2004

Shri Kishor Manohar Nikale took an insurance policy on 28.07.2001 from LIC of India Nashik DO and he died on 15.11.2002 due to Railway accident on 26.10.03 suffered head injury. The claim was preferred by Smt. Sumanbai M. Nikale, mother of the deceased life assured and the same was repudiated by Nashik DO of LIC vide their letter dated 18.01.2003 stating that the policy was in lapsed condition and hence nothing was payable. Aggrieved by the decision of LIC, the claimant made a representation to the Zonal Office of LIC and Zonal Office decided to uphold the repudiation of DO and the same was conveyed to the claimant by the DO vide letter dated 27.05.2004. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the above matter.

The records made available to this Forum have been scrutinized. As per Certificate issued by Lifeline Hospital & Medical Research Centre (I) Pvt. Ltd, Nashik dated 20.03.2003, the deceased life assured met with a Railway accident on 26.10.2003 and had suffered head injury (Acute subdural Haematonia) with fracture of left Femur with left tibia fibula compound. He was operated for subdural Haematonia and for Left Femur and Tibia and Fibula and was on ventilator support. He expired on 15.11.2003. On going through the policy records it is observed that premium due 28.8.02 was paid on 18.09.02 and thereafter no premium was paid by the insured as a result of which policy lapsed since 28.09.2002. Since policy has run for only 1 year 3 months 27 days, it has not acquired paid up value. The company also could not find it possible to consider ex-gratia payment in view of the duration being less than 2 years. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence the claim of Smt. Sumanbai M. Nikale for the sum assured on the life Shri Kishor Manohar Nikale is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 126 of 2004.05
Smt. Sarita Jugalkishor Karwa
Vs.**

Life Insurance Corporation of India

Award Dated 24.12.2004

Shri Jugalkishor G. Karwa took two insurance policies from LIC of India, Nagpur DO on 28.09.02 and he died on 17.09.03 due to Cardio Respiratory Arrest. The claim was preferred by Smt. Sarita Jugalkishor Karwa, wife of the deceased life assured and the same was repudiated by Nagpur DO of LIC vide their letter dated 31.03.2004 stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and therefore nothing is payable. Aggrieved by the decision of LIC, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the DO and the same was conveyed to the claimant. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire records have been scrutinized. As per claim form B dated 9.9.03 issued by Dr. V.B. Chavan, the primary cause of death was Cardio Respiratory arrest and the secondary cause was known case of lower Oesophagus Carcinoma and left lung collapse consolidation. In the claim form A dated 09.10.03 it has been mentioned that the life assured had lung trouble, Cancer, breathing problem etc. As per findings of Dr. Choudhary, the life assured was a chronic alcoholic and chain smoker. In the Discharge Card issued by Dr. Sumer Choudhary of Shri Choudhary Memorial Hospital & Research Centre, the life assured was admitted in the hospital on 15.08.03 and got discharged on 28.08.03. The diagnosis arrived at the hospital was "Known case of lower Oesophageal carcinoma with left lung collapse consolidation. Based on this the medical opinion received by LIC from their Divisional Medical Referee distinctly pointed towards a clear case of suppression of material facts. Had he disclosed about his illness and the habits at the time of proposals for Insurance, LIC would have called for some special reports and taken appropriate decision in acceptance of the proposal. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the claim of Smt. Sarita J. Karwa for the sum assured on the life of Shri Jugalkrishor G. Karwa is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 141 of 2004.05
Smt Ranjana R. Wade
Vs.**

Life Insurance Corporation of India

Award Dated 24.12.2004

Shri Ramakant Mulchand Wade took two insurance policies on 05.07.2000 and 23.03.01 respectively from LIC of India, Thane DO and he died on 02.02.2003 due to Cardio respiratory arrest due to acute renal failure. The claim was preferred by Smt. Ranjana R. Wade, wife of the deceased life assured and the same was repudiated by Thane DO of LIC vide their letter dated 24.03.2004 stating that the deceased life assured withheld material information regarding his health at time of effecting the insurance with them and hence nothing is payable. Aggrieved by the above decision of LIC, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of Do and the said decision was conveyed to the claimant. Hence, Smt. Ranjana R. Wade approached Office of the Insurance Ombudsman requesting his intervention in the matter.

The case papers were scrutinized. It is observed from the certificate or Hospital Treatment dated 12.02.04 issued by Sir J J Group of Hospitals, Mumbai that the life assured was

admitted in the hospital on 19.08.02 and the nature of his complaint was "Right Lower Lobe Tuberculosis Granuloma". It is further mentioned that the patient was a "bidi smoker 1 bundle per day for 15 years, alcoholic 1 quarter per day for 10 years, stopped since 7 years." The Certificate of Hospital Treatment dated 12.02.04 issued by the said hospital also mentions about the illness of Right Lower Lobe Tuberculosis Granuloma he suffered earlier. Thus, it is evident that the life assured was suffering from Diabetes and was in the habit of smoking for the last 15 years. Had he disclosed about his nature of illness and smoking habit at the of proposal / revival for insurance policies, LIC would have called for special reports and taken appropriate decision in acceptance of the proposals. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Thus claim of Smt. Rajana of LIC to repudiate the claim for the sum assured. Thus claim of Smt. Ranjana R. Wade for the sum assured on the life of Shri Ramakant Mulachand Wade is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 124 of 2004.05
Shri Hanif Kasim Sheikh**

Vs.

Life Insurance Corporation of India

Award Dated 24.12.2004

Smt Isharat Hanif Kasim Shaikh took an insurance policy on 19.10.2001 from LIC of India, Nashik DO and she died on 30.09.2003 due to Cardio Arrest. The claim was preferred by Shri Hanif Kasim Shaikh, father of the deceased life assured and the same was repudiated by Nashik DO of LIC vide their letter dated 07.01.2004 stating that the deceased life assured withheld material information regarding her previous insurance at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by this decision of LIC, the claimant, made a representation to the Zonal Office of LIC and the Zonal Office decided to uphold the decision of DO and the said decision was conveyed to the claimant by the DO vide letter dated 12.08.2004, Hence, Shri Hanif Kasim Shaikh approached Office of the Insurance Ombudsman requesting his intervention in the above matter.

The case papers were scrutinized. In the Medical Attendant's Certificate dated 09.10.2003, Dr. V.B. Shaikh had mentioned that the primary cause of death was "Cardiac Arrest" and the secondary cause was "Complete Heart Block". It is noticed that in the proposal form the insured did not disclose about her previous policy for Sum Assured of Rs. 5 lacs which was taken nine months back. Had she disclosed about her previous insurance policy, the requirements for assessment of risk for acceptance of her proposal for insurance would have been different viz., LIC would have called for special reports which were mandatory and taken appropriate decision in acceptance of the proposal form. In the circumstances. This Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence the claim of Shri Hanif Kasim Shaikh for the sum assured under the insurance policy on the life of Smt. Isharat Hanif Kasim Shaikh is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 144 of 2004.05
Smt Yallowwa R. Makadawale**

Vs.

Life Insurance Corporation of India

Award Dated 24.12.2004

Shri Raju Shankar Makadwale took two insurance policies on 27.06.02 and 28.03.03 from LIC of India, Satara DO and he died on 30.09.2003 due to Bleeding Disorder / Aplastic Anaemia. The claim was preferred by Smt. Yallowwa R. Makadwale, wife of the deceased life assured and was repudiated by Satara DO vide their letter dated 16.02.04 stating that the life assured had withheld correct information regarding his health at the time of effecting insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the Complainant made a representation to the Zonal Office of LIC and the ZO upheld the decision taken by the DO and the same was conveyed to the claimant vide DO letter dated 08.07.2004. Therefore the claimant approached the Insurance Ombudsman by her letter 10.08.2004, requesting his intervention in the matter.

The entire case papers have been analyzed. In the Discharge Card dated 26.07.03 of General Hospital, Sangli against the personal history of the life assured it has been mentioned that he was alcoholic in past "5 years off 10 years" - started taking alcohol last 1 month and it is also mentioned that the insured was Chronic tobacco and pan chewer. It is also observed from the Discharge Card that the insured was operated for piles 1 year back, had history of gums and nose bleeding off and on. He underwent blood transfusion also. The Employer has issued a certificate stating that the life assured was on sick leave from 29.10.2000 to 7.11.2000 and from 23.6.2003 to 7.7.2003. Thus it is evident that the life assured was not keeping good health prior to the proposals. Had the life assured disclosed about his illness and habits at the time of proposals for insurance, LIC would have called for Special Reports and taken appropriate decision in acceptance of the proposal. All these amount to suppression of material information about the life assured's health and habits. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. In view of this the claim of Smt. Yallowwa R. Mukadwale for payment of full sum assured under the insurance policies on the life of Shri Raju Shankar Makadwale is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 170 of 2004.05

Smt. Malatibai N. Pandav

Vs.

Life Insurance Corporation of India

Award Dated 24.12.2004

Shri Narayan Shridhar Pandav took an insurance policy on 28.10.93 from LIC of India, Nashik DO and he died on 3.8.95 due to Asthama. The claim was preferred by Smt. Maltibai N. Pandav, wife of the deceased life assured and the same was repudiated by Nashik DO of LIC vide their letter dated 02.04.98 stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Not satisfied with this decision the claimant made a representation to the Zonal Office of LIC and Zonal Office decided to uphold the repudiation action by DO and the same was conveyed to the claimant. Hence, Smt. Malatibai N. Pandav approached insurance Ombudsman requesting his intervention in the matter.

The entire records have been scrutinized. In the claim form B dated 15.08.1997 Dr. Mohan R. Patil had mentioned that the life assured's primary cause of death was Asthma and the secondary cause was cough. From the investigation report, it is revealed that the deceased life assured's general health condition was not good and he had availed sick leave from 7.1.91 to 12.1.91, 24.8.94 to 2.9.94, 21.6.94 to 30.6.94, 7.12.94 to 30.1.95 and 10.7.95 to 3.8.95 till death. He was suffering from various ailments like Tuberculosis, Diabetes, Asthama etc. During the period 10.7.95 to 3.8.95 he had taken leave for treatment for Jaundice. LIC had enquired with the Employer of the life assured and it is

revealed that he had availed leave from 17.1.84 to 16.10.84 -273days for tuberculosis and the facts of which was not disclosed in the proposal for insurance, LIC would have called for special reports and taken appropriate decision in acceptance of the proposal form. In the circumstances this Forum has no valid ground to interfere with the decision of Smt. Malatibhai N. Pandav for the sum assured on the life of ,Shri Narayan Shridhar Pandav is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 163 of 2004.05
Smt. Draupadabai Chandrakant Sanap
Vs.
Life Insurance Corporation of India

Award Dated 31.12.2004

Shri Chandrakant Chitaman Sanap took an insurance policy on 13.02.2002 from LIC of India, Nashik Do and he died on 07.07.2003 due to Tuberculosis. The claim was preferred by Smt. Draupadabai C. Sanap, wife of the deceased life assured and the same was repudiated by Nashik DO of LIC vide their letter dated 09.03.2004 stating that the deceased life assured had with-held material information regarding his health at the time of effecting the insurance with them and therefore nothing is payable. In view of this claimant made a representation to the Zonal office of LIC and Zonal Office decided to uphold the repudiation decision of DO and the same was conveyed to the claimant vide DO letter dated 12.08.2004. Hence, the claimant approached insurance Ombudsman requesting his intervention in the matter.

The entire records have been analyzed. In the Claim Form B-1 dated 23.12.2003, it is mentioned by Dr. B. P. Yande, Maharashtra TB Sanatorium, Nashik that the life assured was admitted in the hospital on 24.06.2002 and the complaints were cough with expectoration, fever, cold, loss of appetite, generalized weakness etc since one month. In the claim Enquiry Report dated 31.10.2003 the cause of death mentioned was "heart Attract" and it is also mentioned that the life assured was taking treatment for Tuberculosis since April 2001 from Tuberculosis Hospital, Nashik. Medical Attendant 's Certificate date 19.11.2003 stated that the primary cause of death was Tuberculosis and the secondary cause was Anaemia and hypoproteinemia. According to the Medical Certificate dated 14.1.04 the life assured was suffering from pulmonary Koch's and was under treatment at PHC, Naigaon from 4.4.2001 to Oct. 2001. Dr. A. M. Nandode mentioned in his certificate dated 13.02.2004 that the life assured was suffering from pulmonary Tuberculosis "before 3.4 weeks at the first Consultation on 4.4.2001". Thus it is observed that the life assured was not keeping good health prior to the proposal the fact of the which he had not disclosed to LIC. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the claim of Smt. Draupadabai C. Sanap for the sum assured on the life of Shri Chandrakant Chitaman is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 183 of 2004.05
Smt. Pooja Subhas Jamadar
Vs.
Life Insurance Corporation of India

Award Dated 31.12.2004

Shri Subhash Shripati Jamadar took an insurance policy on 11.12.99 from LIC of India, Mumbai DO -II and he died on 15.12.2002 due to Pulmonary Tuberculosis. The claim was preferred by Smt. Pooja S. Jamadar, wife of the deceased life assured and the same was repudiated by Mumbai DO - II of LIC vide their letter 31.03.2004 stating that the deceased

life assured withheld material information regarding this health at the time of effecting the insurance with them and therefore nothing is payable. Not satisfied with the decision of LIC, the claimant made a representation to the Zonal Office of LIC and Zonal Office upheld the repudiation action take by the DO and the same was conveyed to the claimant by DO. Hence, the claimant approached Insurance ombudsman requesting his intervention in the matter.

The entire records have been analyzed. It is observed from the Medical Attendant' s Certificate- Claim Form B wherein Dr. A. R. Gangawane of G.T.B. Hospitals has mentioned that the primary cause of death was "Pulmonary Tuberculosis". The patient had the history of Pulmonary Tuberculosis for the last 4 years and the symptoms were breathlessness, cough, fever, loss of weight and appetite etc. According to the claimant the life insured died due to heart fail and the death was sudden. According to the claimant the life insured died due to heart fail and the death was sudden. According to Employer's Certificate dated 7.8.03, the life assured had last attended duty on 14.12.02. It is evident that the deceased life assured was suffering from pulmonary tuberculosis prior to the proposal, the fact of which, he had not disclosed to LIC while making the proposal form. In the circumstances this Forum has no valid ground to interfere with the decision of LIC of repudiate the claim for the sum assured and therefore the claim of Smt. Pooja S. Jamadar for the sum assured on the life of Shri. Subhash Shripari Jamadar is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 154 of 2004.05

Smt. Mayuri Abhay Parikh

Vs.

Life Insurance Corporation of India

Award Dated 11.1.2005

Shri Abhay Jayantilal Parikh took an insurance policy on 01.10.2001 from LIC of India, MDO-IV and he expired on 12.02.2003 due to Hepatocellular Carcinoma. The claim was preferred by Smt. Mayuri A. Parikh, wife of the deceased life assured and the was same repudiated by MDO-IV of LIC vide their letter dated 28.01.2004 stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the claimant, made a representation to the Zonal office of LIC and ZO decided to uphold the decision of DO and the said decision was conveyed to the claimant by the DO vide letter dated 24.08.04. Hence, Smt. Mayuri A Parikh approached Insurance Ombudsman by her dated 21.09.2004 requesting his intervention in the matter.

The entire case papers were scrutinized. The life assured was admitted at Jaslok Hospital on 08.01.03 and the diagnosis arrived at the hospital was Liver mass HLL (Hepatocellular) Metastatic Carcinoma. It is revealed from the Hospital Indoor papers issued by Jaslok Hospital that the life assured had operation for Varicocele, past history of Jaundice in 1980, found to be HbsAg+ve in 1998 Sero converted to ve in 2002, operated for varicocele in the past. Dr. Samir R. Shah, Consultant -Gastroenterologist of Jaslok Hospital issued a certificate dated 8.11.04 stating that the life assured was under his care for treatment of Liver tumor. He further stated that in 1998 HBsAg was reported to be positive at the time of varicocele surgery but he was not investigated further and was not advised any treatment for Hepatitis B till the detection of tumor in December 2002. He had deep infiltrating lesions in liver and also in spleen. Hence it is evident that the life assured had past history of varicocele operation, jaundice and he was HBSAg+ve and was treated for pain, fever, loss of appetite and loss of weight prior to the proposal for the policy which he had not disclosed at the time of proposal for insurance. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence the claim of Smt. Mayuri R. Parikh is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 150 of 2004 - 05
Smt. Mangala J. Soude**

Vs.

Life Insurance Corporation of India

Award Dated 11.1.2005

Shri Jairam Dagadu Saude took three insurance policies during the period from 28.09.99 to 24.10.2000 from LIC of India Amravati DO and he died on 26.09.03 due to Tuberculosis. The claim was preferred by Smt. Mangala J. Soude, wife of the deceased life assured and the same was repudiated by LIC stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the claimant made a representation to the Zonal Officer of LIC and ZO decided to uphold the decision of the DO and the same was conveyed to the claimant vide letter dated 12.08.2004 by DO. Not satisfied with this, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

From the Employer's Certificate it is observed that the life assured was on leave from 15.5.98 to 28.05.98 and 16.12.98 on medical ground. On further scrutiny of Employer's Certificate it is revealed from the certificate issued by District T.B. Centre, Yavatmal that the life assured was suffering from Pulmonary Tuberculosis during the period from 31.01.2000 to 31.03.2000. In the further medical certificate dated 17.04.2000 issued by the Medical Officer of the same T.B. Centre, the life assured was advised complete bed rest during the period from 31.03.2000 to 17.04.2000 as he was suffering from Pulmonary Koch's disease. The hospital records dated 23.11.01 mention that the life assured was chronic alcoholic. In the Certificate of Hospital treatment dated 12.3.03 the life assured was admitted in the hospital on 27.12.02 and the nature of complaints were cough with Expectoration, fever, breathlessness etc. The diagnosis arrived at the hospital was "Pulmonary Tuberculosis". In the Medical Attendant's Certificate dated 12.11.03, Dr. P.H. Wadhwe mentioned that the primary cause of death was Pulmonary Koch's and the secondary cause was Pulmonary tuberculosis. Therefore it is evident that the life assured had health problem prior to the proposals which he had not disclosed at the time of proposals for Insurance. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence the claim of Smt. Mangala J. Soude is not sustainable. The notional paid-up value paid under one policy is in order.

**Mumbai Ombudsman Centre
Case No. LI - 160 of 2004.05
Smt. Jameelabee Ahmad Ali**

Vs.

Life Insurance Corporation of India

Award Dated 12.1.2005

Shri Ahmad Ali Amir Ali took an insurance policy on 24.10.2000 from LIC of India, Amravati DO and he expired on 18.09.2001 due to heart attack. The claim was preferred by Smt. Jameelabee Ahmed Ali, wife of the deceased life assured and the same was repudiated by Amravati DO of LIC vide their letter dated 30.03.2002 stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the DO and the same was conveyed to the claimant. Hence, the claimant approached Insurance Ombudsman requesting his intervention.

The entire records have been scrutinized. In the Medical Attendant's Certificate dated 4.10.01, Dr. Uday K. Mahorkar had mentioned that the primary cause of death was "Cardio

Respiratory Arrest” and the secondary cause was “Acute Anterior wall Myocardial Infarction with Triple Vessel Disease with Deiatabetes Mellitus (recent) with dyslipidemia”. He was suffering from these illness since 4 years and the symptom was post-prandial angina. In the admission notes dated 18.09.01 of Avanti Institute of Cardiology, Nagpur it is mentioned that the life assured was a “Known case stable Angina KCC DM (Recent)” In the Death summary dated 18.09.01 issued by Avanti Institute of Cardiology, Nagpur, it has been mentioned that the life assured was a known case of unstable angina Class II, post parndial angina since 4 years, Diabetes Mellitus (Recent), TMT strongly Positive and was admitted for Coronary Angiography. TMT summary report from Baheti Hospital & Research Centre, Amravati dated 17.07.01 which reveals that the life assured had a history of “Exertion chest pain 3 -4 years heaviness”. In the letter dated 11.12.04 addressed to LIC, Doctor Harish Beheti, Multi Specialty Hospital, Amravati has mentioned that the insured was having chest pain on and off for last 3 years. The medical reports lead to the conclusion that the life assured was suffering from cardiac problem prior to the date of policy and he had taken treatment from various Doctors which he had not disclosed at the time of proposal. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence the claim of Smt. Jameelabee Ahmad Ali is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 123 of 2004.05
Smt. Maltibai Sahadev Rathod
Vs.
Life Insurance Corporation of India

Award Dated 18.1.2005

Shri Sahadeo Chchana Rathod took an insurance policy on 15.01.97 from LIC of India, Nagpur DO and he expired on 20.12.01 suddenly. The claim was preferred by Smt. Maltibai S. Rathod, wife of the deceased life assured and the same was repudiated by Nagpur DO stating that the policy was received on the strength of personal statement regarding health made by the deceased on 13.10.98. LIC has also mentioned that nothing become payable as the policy did not acquire paid up valve. Aggrieved by the decision of LIC, the Complainant made a representation to the Zonal Office of LIC and the ZO upheld the decision taken by the DO and the same was conveyed to the claimant. Therefore Smt. Maltibai S. Rathod approached the Insurance Ombudsman requesting his intervention in the matter.

The entire case papers have been analyzed. As per the Certificate of Hospital Treatment dated 22.02.03 issued by Crescent Hospital the life assured was admitted in the hospital on 25.07.98 and the nature of complaints was breathlessness, cough etc. The insured was treated earlier on 21.10.97 in the same hospital for Rheumatic Mitral Stenosis as an out patient. Dr. Aziz Khan of Crescent Nursing Home & Intensive Cardiac care Unit had treated him since 21.10.97 for Effort Dyspnoea Grade II and prescribed various medicines vide prescription dated

21.10.98. The insured was admitted in the same Nursing Home on 25th and 26th July 98 for evaluation of Rheumatic Mitral Stenosis status and he was found to have mild to moderate MS. The doctor prescribed medicine vide prescriptions dated 20.4.98, 26.7.98, 16.10.99 and 21.10.99. In the Investigation Report dated 13.01.03 by the Branch Manager, LIC it has been mentioned that the life assured had undergone valve operation in Dr . Aziz Khans Hospital, however, the exact date was not mentioned. Therefore it is evident that the life assured was not keeping good health prior to the revival of the policy and he had not disclosed about his illness in the Declaration of Good Health Form. All these amount to suppression of material information about the life assured’s health. Since policy had not acquired paid up value nothing was payable by the company. In the circumstances this

Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore the claim of Smt. Maltibai S. Rathod is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 021 of 2004.05**

Mr. Smita P. Kulkarni

Vs.

Life Insurance Corporation of India

Award Dated 24.1.2005

Shri Pandurang Shivram Kulkarni took an insurance policy on 14.03.2000 from LIC of India, Satara DO and he expired on 26.08.2003 due to renal failure. The claim was preferred by Mrs. Smita P. Kulkarni, wife of the deceased life assured and the same was repudiated by LIC of India, Satara DO stating that the policy was allowed to lapse by non-payment of yearly premium due on 14.03.2001. The policy was revived on 30.03.2002 for full sum assured on the strength of a personal statement regarding health made by the deceased life assured on 30.03.2002. LIC took the stand that they held indisputable evidence to show that the deceased life assured was Carrier of Hepatitis 'B' before the date of revival and hence, it is evident that the deceased life assured had made deliberate mis-statements and with-held material information from LIC regarding his health at the time of getting the policy revived and hence in terms of the Declaration signed by him, the reviver of the policy was declared void and all moneys paid towards, revival of the policy and subsequent thereto belonged to them and as such, nothing becomes payable under the said policy. Aggrieved by the decision of LIC, Complainant made a representation to the Zonal Mangar of LIC but the ZO upheld the decision taken by the Divisional Office. Hence the claimant approached the office of Ombudsman requesting his intervention in the matter.

The entire records were scrutinized. On close analysis of the records it is noticed that policy records from P & GS Deptt were transferred to Miraj Branch of LIC in the year 2001. From the letter dated 15.12.04 addressed to Satara Divisional Office of LIC by Bank of Maharashtra, it is observed that they issued a Demand Draft No. 303831 on 27.02.01 for Rs. 9686/- which was subsequently cancelled on 27.03.02. It is also noticed that the a fresh Pay Order No. 369/02 for Rs. 9686/- was issued by Bank of Maharashtra on 3.4.02. It is presumed that at the time of remitting further yearly premium due 2002, he must have got the information about non-accounting of the Demand Draft by LIC sent by him in 2001 and as a result he must have cancelled the Demand Draft and took a fresh pay order in March 2002, as a result of which the policy lapsed and had to be revived. The medical report including certificate of treatment dated 20.10.03 and claim form B1 dated 24.09.03 submitted by Dr. Y. K. Karmarkar , it is revealed that the life assured was treated from January 2002 to August 2003 for fever, loose motions etc and it is further mentioned that he was Hepatitis B Carrier since 3 years. In the facts and circumstances, the repudiation of claim by LIC under the policy on the ground that revival was void is hereby set aside. Consequently LIC is directed to settle the full sum assured as per the complaint of Smt. Smitha Pandurang Kulkarni and resolve the matter. There is no order for any other relief.

**Mumbai Ombudsman Centre
Case No. LI - 157 of 2004.05**

Smt. Bhagyashri M. Manike

Vs.

Life Insurance Corporation of India

Award Dated 27.1.2005

Shri. Mahadeorao Sampatrao Manike took an insurance policy on 28th April, 2000 from LIC of India, Nagpur DO and he died on 26.02.2003 due to HIV - AIDS. The claim was preferred by Smt. Bhagyashri M. Manike, wife of the deceased life assured and the same was

repudiated by Nagpur DO of LIC stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and therefore nothing is payable. Aggrieved by this decision of LIC, the claimant made a representation to the Zonal Office of LIC and ZO to uphold the decision of the DO and the same was conveyed to the claimant. Hence the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire records have been scrutinized. In the Medical Attendant's Certificate dated 16.07.03, Dr. S. P. Kalantri has mentioned that the primary cause of death was HIV Encephalopathy and the symptoms were weak arm, leg, inability to swallow and speak etc and he availed treatment for HIV AIDS during the period of his hospitalization from 22.3.99 onwards. From the Certificate by the Employer it is revealed that the life assured had availed sick leave for about 2 months during the period of his having been hospitalized for treatment of disease from 22.03.99 to 16.05.99 as confirmed through the treatment papers obtained from Station Hospital, CRPF, Neemuch. He was on sick leave from 24.05.93 to 02.06.93, 20.08.97 to 26.08.97 and 22.03.99 to 16.05.99 for hospitalization. Therefore it is evident that the life assured was suffering from HIV - AIDS prior to the proposal for insurance policy which he had not disclosed to LIC. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore the claim of Smt. Bhagyashri M. Manike is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 152 of 2004.05
Smt. Shankuntala Himat Basaonathe
Vs.
Life Insurance Corporation of India

Award Dated 27.1.2005

Shri. Himat Bhiwaji Basaonathe took an insurance policy on 21.11.2002 from LIC of India, Amravati DO and he died on 26.9.2003 suddenly. The claim was preferred by Smt. Shakuntala Himat Basaonathe wife of the deceased life assured and the same was repudiated by Amravati DO of LIC stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the DO and the same was conveyed to the claimant. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

The entire records have been scrutinized. It has been revealed from the certificate dated 12.02.04 issued by Dr. L.P. Kormore, that the life assured was suffering from hypertension and Peptic Ulcer since 10 years. Further, in the certificate issued by Dr. Sanjay Basme it is mentioned that the life assured was under his treatment for Seizure disorder for 5.6 years and was admitted in his hospital twice for treatment. According to Medical Attendant's Certificate dated 12.11.03 Dr. Atul Yadgire to whom Shri Basaonathe was referred by Dr. Basme, has mentioned that on 26.09.2003 morning the life assured had chest pain and breathlessness and died after two hours. Though the exact nature of treatment and medicines prescribed is not indicated, the certificates issued by two Doctors, viz. Dr. Kormore and Dr. Basme confirm that the life assured has a long history of Seizure, hypertension and Ulcer which goes much before the proposal and he had not disclosed about his illness to LIC. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Therefore the claim of Smt. Shakuntala Himat Basaonathe is not sustainable.

Mumbai Ombudsman Centre
Case No. LI - 136 of 2004.05
Dr. Nitin Vijay Kimmathar

Vs.

Life Insurance Corporation of India

Award Dated 31.1.2005

Smt. Meera Vijay Kimmatkar took an insurance policy on 28.05.03 from LIC of India, Nagpur DO and she died on 15.02.04 due to cardio respiratory arrest. The claim was preferred by Dr. Nitin Vijay Kimmatkar, son of the deceased life assured and the same was repudiated by Nagpur DO and LIC stating that the deceased life assured withheld material information regarding her occupation income etc at the time of effecting the insurance with them. Aggrieved by the decision of LIC, the claimant made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the DO and the same was conveyed to the claimant. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

As per the proposal form, occupation of the deceased life assured was service, which has been overwritten without bearing signature of the proposer/deceased life assured. It has been mentioned in the proposal form that the insured was working in Kimmatkar Hospital, Nagpur and length of her service with employer was five years. It is observed that length of service also has been overwritten. The claimant's contention that overwriting was done by agent is not acceptable in view of the fact that the life assured, an educated person of the stature of the proponent was expected to sign the proposal form only after confirming the correctness of the reply to the questions in the proposal form LIC has relied on the declaration made by the deceased life assured in the proposal form. If correct information had been given regarding her status and income, LIC would have insisted upon husband's insurance. In view of the correction made in reply to the question pertaining to present occupation and alleged difference in handwriting for replies the given to the questions pertaining to personal details of the proposer, LIC should have taken appropriate action against him. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim and therefore the claim of Dr. Nitin. V. Kimmathakar is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 108 of 2004.05

Smt. A. R. Mane

Vs.

Life Insurance Corporation of India

Award Dated 2.2.2005

Shri Ramesh Manikrao Mane took an insurance policy on 15.03.2002 from LIC of India, Aurangabad DO and he died on 17.11.03 due to Renal failure, Chronic Rheumatoid Arthritis. The claim was preferred by Smt. Anjirabai R. Mane, wife of the Deceased Life Assured and the same was repudiated by Aurangabad DO of LIC vide their letter dated 06.04.2004 stating that the life assured had withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Hence the claimant approached Office of the Insurance Ombudsman requesting his intervention in the matter.

The case papers were scrutinized. It is observed from the Medical Attendant's Certificate dated 08.01.04 issued by Dr. A.L. Kukade, Vivekananda Hospital, Latur that the primary cause was Renal Failure with Chronic Rheumatic Arthritis and the symptoms were breathlessness, fever about 11 month prior to death etc. In the Certificate of Hospital Treatment - claim form B1 dated 08.01.04 also mentioned the same disease and the Symptoms were Oliguria, loss of appetite, nausea, breathlessness, chest pain etc - 15 days. Indoor case papers dated 13.01.03 of Vivekanand Hospital, Latur mentioned the past history of joint pains seen at VHL before 5 years. Had it been disclosed in the proposal, LIC's underwriting decision would have been based on obtaining certain special reports.

Therefore, there was suppression of material facts with regard to the health of the deceased life assured. Therefore, the claim of Smt. Anjirabai R. Mane for the assured on the life of Shri. Ramesh Manikrao Mane is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 111 of 2004.05
Shri Yashwant S. Chakole**

Vs.

Life Insurance Corporation of India

Award Dated 7.2.2005

Shri Ashok Sahadeo Chakole took an insurance policy on 27.01.03 from LIC of India, Nagpur DO and he died on 23.02.2003 due to Ischaemic Heart disease. The claim was preferred by Shri Yashwant S. Chakole, brother of the deceased life assured and the same was repudiated by Nagpur DO of LIC vide their letter dated 09.12.03 stating that the deceased life assured having withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by this decision, the complainant made a representation to Zonal Office and the ZO upheld the decision taken by the Divisional Office and the same was conveyed to the claimant. Dissatisfied with the decision of LIC, the claimant approached Office of Insurance Ombudsman vide his letter dated 14.08.2004 requesting his intervention in the matter.

Records pertaining to the case have been analyzed. In the Medical Attendant's Certificate Dr. Rewaram Ghatole has mentioned that the primary cause of death was "Ischaemic Heart Disease" and the symptom was chest pain. The life assured first consulted the Doctor on 23.2.03. Dr. C.J. Nimje in the Special Query Form dated 4.11.03 has mentioned that the life insured was suffering from malaria with viral fever with Upper Respiratory Infection, cough, bodyache, fever, headache, and vomiting and that the Doctor had treated him from 12.12.02 to 30.01.03 for the above illness, in his dispensary. In the claim form B Dr. Rewaram Ghatole has mentioned that the life assured first consulted him on 23.02.03 and the primary cause of his death was "Ischaemic heart Disease" and the Symptom was chest pain. The deceased life assured age 36 years on the date of proposal is unmarried and has studied upto 3rd standard. He has nominated his elder brother aged 43 years in the above policy, even though his parents are alive. The annual income shown in the proposal form and Agent's Report is Rs. 40,000/- whereas the Investigation Officer, in his investigation report has mentioned the average monthly income of deceased life assured to be Rs. 900/- to Rs. 1000/- per month, which is not enough for his personal expenses and to pay quarterly premium of Rs. 902/- for life cover of Rs. 1,00,000/-. All these clearly put the role of Agent in getting such a business a big question mark and LIC's under writing also in a spot. In view of this, the decision of LIC that the contract itself is vitiated through suppression of material facts, is in order. Therefore, the claim of Shri Yashwant S. Chakole for the sum assured on the life of Shri Ashok Sahadeo Chakole is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 188 of 2004.05
Smt. Shikundaladevi T. Sharma**

Vs.

Life Insurance Corporation of India

Award Dated 9.2.2005

Shri Takdir Chaman Sharma took an insurance policy on 28.02.03 from LIC of India, Thane DO and he died on 07.08.03 due to Acute Coronary Insufficiency. The claim was preferred by Smt. Shikundaladevi T. Sharma, wife of the deceased life assured and it was repudiated by Thane DO of LIC stating that the deceased life assured withheld correct information regarding his health at the time of effecting the insurance with them and hence nothing is

payable. Aggrieved by this decision of LIC, Smt. Shikundaladevi T. Sharma made a representation to the Zonal Office of LIC and Zonal Office decided to uphold the repudiation action by Division as Office and the same was conveyed to the claimant. In view of this the claimant approached Insurance Ombudsman requesting his intervention in the above matter.

The entire case papers have been scrutinized. It has been observed from Medical Attendant's Certificate issued by Dr. Gautam Jatale that the primary cause of death was "Acute Coronary Insufficiency" and the secondary cause was "Diabetes Mellitus". Dr. Gautam Jatale had treated him for the period from 04.08.03 to 07.08.03. Dr. A.R. Chaudhari of Chaudhary Hospital issued a certificate dated 21.12.03 stating that the life assured was admitted in his hospital on 04.08.03 with severe pain in knee joint with uncontrolled diabetes with breathlessness and considering the serious condition he was transferred to "higher centre" for further treatment. In the Certificate of Treatment issued by Dr. A. R. Chaudhari dated 03.12.03 mentioned that the patient, Shri T. C. Sharma consulted him for the first time on 04.08.03 and his complaint was "pain in left knee, severe weakness, breathlessness for 2 -3 days". The Doctor advised him to take Insulin, Antibiotics, pain killers etc. However, as per the certificate by the employer, Lok Housing and Construction Ltd, there was no instance of Shri Sharma having taken leave on ground of sickness during the 2 years prior to his death. It is possible to medically manage the virulent impact of the disease like Diabetes for sometime but on a sustained condition it caused stenosis of the arteries to cause coronary artery disease. Under the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence, the claim of Smt. Shikundaladevi T. Sharma for the sum assured on the life of Shri. Takdir Chaman Sharma is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 182 of 2004.05

Shri S. R. Kharidia

Vs.

Max New York Life Insurance Corporation of India

Award Dated 15.2.2005

Smt Sapna Premal Javeri Applied for two Steeping Stone Policies for a sum assured of Rs. 1 Lakh each with addition as Personal Accident Benefit and Dread Disease riders for Rs. 1 lakh each under Proposal. The proposer filled the proposal form for the policies and initial payments were remitted to Mumbai General Office. In the meantime, Smt. Sapna P. Jhaveri died unfortunately due to a road accident on 15.08.04 at Ahmedabad. Shri Premal P. Jhaveri, husband of the life insured intimated Max New York Insurance Co Ltd, Mumbai about her death on 24.08.04 and requested for settlement of the death claim taking a sympathetic view of the circumstances. But the Company denied the claim stating that the life assured had expired before the case were underwritten and the policy issued and hence they were not in a position to further process the proposals the and complete the contract. The Company, therefore, returned the initial payments. Aggrieved by the above decision, the complainant approached the Office of Insurance Ombudsman vide his letter dated 06.10.04 requesting his intervention in the matter.

The Company denied the death claim by drawing the complainant's attention to Point no.3 on page 6 of the proposal form where it is stated that "Receipt of the completed proposal and initial payment does not create any obligation upon the company to underwrite the risk. The company shall not be liable until it has underwritten the risk and issued the Policy." The main intention of insurance was to cover the risk of life and savings. The issue would be whether the Company attended to the matter with "reasonable despatch" and whether all other cases of underwriting of proposals pass through the same procedural formalities which, in any case, are a must. It is clear that there was no contract in existence on the date of death of the life proposed. Though the payment towards the first premium was

received on 12.08.04 by the company, their bank account was credited only on 17.08.04 when the proposer was not alive. Insurance cover cannot be granted on "credit" in one hand and on assumption of automatic acceptance on the other, and hence strictly as per the terms of the proposal, point No. 3 of Page 6 of the Form, it remained an unconcluded contract. Accordingly, the rejection of the claim and the refund of the initial deposit towards first premium, by the Company cannot be faulted. In the facts and circumstances, the claim of Shri S. R. Kharidia for payment of Sum Assured on the life on his daughter Late Smt. Sapna Premal Jhaveri is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 122 of 2004.05
Smt. Usha Udhav Kharmate**

Vs.

Life Insurance Corporation of India

Award Dated 16.2.2005

Shri Kharmate Udhav Pandurangrao took an insurance policy on 15.03.2001 from LIC of India Aurangabad DO and he died on 19.10.2003 due to heart attack. The claim was preferred by Smt. Usha U. Kharmate, wife of the Deceased Life Assured and it was repudiated by Aurangabad DO stating that the life assured had withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by the decision of LIC, the claimant, made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of DO. Hence, Smt. Usha U. Kharmate approached Insurance Ombudsman requesting his intervention in the matter.

The case papers were scrutinized. As per the Indoor case papers of Sai Shalaka Brain & Spine Centre, Ahmednagar, Shri Pandurang Kharmate was under treatment from 15.07.99 to 19.07.99 under Dr. Bharat Naik for pain in left hip-pain in left leg and was advised to continue various medicines by way of Anti Tuberculosis treatment. Shri Kharmate took treatment from Sancheti Institute for Orthopaedics & Rehabilitation, Pune from 10.08.99 to 11.08.99. The Indoor papers confirm pain in the hip due to Koch's R. Hip stating clearly "tenderness over R Hip, R hip R.O.M. terminally restricted..." In spite of probing queries, Shri Pandurang Kharmate did not disclose these facts in the proposal form, thereby misleading the underwriter in calling for special reports and taking appropriate decision in acceptance of the proposal. This has no doubt vitiated the contract. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and hence the claim of Smt. Usha U. Kharmate for payment of the sum assured of the life of Shri. Kharmate Udhav Pandurangrao is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 135 of 2004.05
Smt. Naaz Moiz**

Vs.

Life Insurance Corporation of India

Award Dated 21.2.2005

Shri Mohd. Abdul Moiz took an insurance policy on 28.04.1998 from LIC of India, Aurangabad DO and he died on 26.12.2002 due to heart attack. The claim was preferred by Smt. Naaz Moiz, wife of the Deceased Life Assured and it was repudiated by Aurangabad DO of LIC stating that the life assured had withheld material information regarding his existing insurance particulars at the time of effecting the insurance with them and hence nothing is payable. Aggrieved by this decision of LIC, the claimant, Smt. Naaz Moiz made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of DO. Hence, Smt. Naaz Moiz approached Insurance requesting his intervention in the matter.

The entire records have been scrutinized. The complainant, Smt Naaz Moiz in her written statement had argued that the Agent who had filled the proposal form has failed to mention the existence of the previous policy though both the Policies were sold through the same Agent. However, it is a well establish legal position that whenever the proposal form and the declaration thereunder are affirmed and signed, it becomes a personal oath and cannot be subsequently denied that there was any omission or inaccuracy. Considering the age of the proposer and the total sum proposed under consideration along with the previous policy, if it had been disclosed, LIC would not have accepted the proposal under non-medical basis. LIC also would have called for special medical reports which are underwriting requirements before accepting the proposal. This option was not given to the insurer for whatever reasons but the important fact of non-disclosure of previous insurance amounts to suppression of material facts. Under the circumstance this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured of Rs. 4 lakh made by the complainant and therefore, the claim of Smt. Naaz Moiz for the payment of sum assured on the life of Shri. Mohd Moiz is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 216 of 2004.05
Smt. Ashwini Ashok Berde**

Vs.

Life Insurance Corporation of India

Award Dated 28.2.2005

Shri Ashok Sadashiv Berde took two insurance policies on 26.09.99 from LIC of India, SSS Division, Mumbai and he died on 02.01.02 due to Acute Coronary insufficiency. The claim was preferred by Smt. Ashwini A. Berde, wife of the deceased life assured and the same was repudiated by Salary Saving Scheme Division of LIC stating that the deceased life assured withheld material information regarding his health at the time of effecting the insurance with them and hence nothing is payable. Dis- satisfied with the decision of LIC, Smt. Ashwini A. Berde made representation to the Zonal Office of LIC and Zonal Office decided to uphold the repudiation action taken by the Divisional Office and the same was conveyed to the claimant vide letter dated 23.11.04 by the Divisional Office. Hence, the claimant approached Insurance Ombudsman requesting his intervention in the matter.

As per Medical Attendant's Certificate the cause of death was "Acute Coronary Insufficiency (Natural) and the co-existed disease was" Hypertension with Asthma" which the Insured was suffering from since 10 years. As per the certificate from the employer the insured was on medical leave from 08.05.97 to 14.06.97 as he was suffering from viral hepatitis for which the insured has submitted a certificate dated 14.06.97 from Dr. R. M. Gode of Sanjivani Hospital. The insured again was on leave on medical ground during the period from 15.10.97 to 30.11.97 for the illnesses of Hypertension and Ischaemic Heart Disease. It is observed that in the proposal form dated 29.08.99 submitted by the insured, he had not disclosed about the above illnesses as well as the long leave taken by him. This amounts to non-disclosure of material facts. In the circumstances this Forum has no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured and therefore the claim of Smt. Ashwini A Berde for the payment of sum assured on the life of Shri Ashok Sadashiv Berde is not sustainable.

**Mumbai Ombudsman Centre
Case No. LI - 171 of 2004.05
Smt. Sangeeta N. Jagtap**

Vs.

Life Insurance Corporation of India

Award Dated 2.3.2005

Shri Narendra Jijaba Jagtap proposed for an insurance policy on 28.03.1997 from LIC of India, SSS Division, Mumbai and he died on 06.04.1997 due to Pulmonary Oedema and coma in a case of Vehicular Accident. Smt. Sangeeta N. Jagtap, wife of Late Shri Narendra Jijaba Jagtap, the proponent preferred the claim and it was repudiated by SSS Division of LIC on the ground of non-compliance of declaration given on personal boath in the proposal form. In the proposal form, there is a declaration wherein it has been mentioned that after the date of submission of proposal form and before the issue of the first premium receipt any change in the health, occupation or any adverse circumstances connected with financial position of the proposer or any member of the family should be informed to LIC in writing. The proposal form along with the declaration was duly signed by the proposer and LIC took the stand that the insured did not inform the accident occurred to LIC before completion of the proposal and hence they have repudiated the claim. Hence Smt. Sangeeta N. Jagtap made a representation to the Zonal Office of LIC and ZO decided to uphold the decision of the DO and same was conveyed to the claimant by DO. Therefore, the claimant approached Insurance Ombudsman requesting his intervention in the above matter. The proponent met with a road accident on 28.03.97 at 20.00 hrs. He was admitted in Intensive Care Unit of KEM Hospital in a very critical condition. He was in an unconscious state as he went into coma from the date of admission and was battling for his life and later succumbed. The analysis of the case alongwith various document submitted to this Forum reveals that the proponent filled in the proposal form on 18.3.97 and the amount towards the first premium was paid on 21.03.97. The Policy number was allotted and the Policy was printed for issue. It would be evident that the road accident which occurred on 28.3.97 for which the proponent was immediately hospitalized and later passed into coma, was a very important information in his health status and should have been communicated to LIC forthwith which was not done. His wife came to know of the policy only after received first premium receipt from the Agent at the end of April 1997 which will not hold the ground for her not informing LIC immediately after the accident occurred. LIC therefore invoked the above mentioned condition and substantiated that the contract was uncompleted and therefore, they repudiated their liability. In the facts and circumstances, the decision of LIC to repudiate the claim of Smt. Sangeeta Narendra Jagtap under the above referred policy is held sustainable. Hence the claim of Smt. Sangeeta Narendra Jagtap for payment of sum assured under the Policy on the life of Shri Narendra Jijaba Jagtap is not sustainable.

Mumbai Ombudsman Centre

Case No. LI - 199 of 2004.05

Smt. Anamika Anil Chavan

Vs.

Life Insurance Corporation of India

Award Dated 15.3.2005

Shri Anil Dattaram Chavan took an insurance policy on 15.11.1994 from LIC of India, SSS Division, Mumbai and he died on 21.09.2000 due to Terminal Cardio Respiratory Arrest. The claim was preferred by Smt. Anamika A. Chavan, wife of the deceased life assured and the same was repudiated by SSS Division of LIC stating that the life assured had made deliberate mis-statements withheld material information regarding his health at the time of getting the policy revived and hence the policy was declared null and void and all moneys paid towards revival of the policy and subsequent thereto belonged to them and nothing is

payable. Aggrieved by the above decision of LIC, the claimant, Smt. Anamika A. Chavan made a representation to the Zonal Office of LIC and the Zonal Office decided to uphold the repudiation action by DO and the same was conveyed to the claimant by SSS Divisional Office. Hence the claimant approached Insurance Ombudsman by her letter dated 18.11.2004 requesting his intervention in the above matter.

Records pertaining to the case have been analyzed. It has been revealed from the Claim Form B-1 dated 16.09.01 issued by Dr. Pramodini Shankaran of Bhaktivedanta Hospital that the life assured was admitted in the hospital on 14.10.99 for high grade fever off and on, weakness, loss of weight, cough with expectoration etc since 5 to 6 months and the diagnosis arrived at the hospital was "Pulmonary Koch's with HIV Positive". In the Claim Form B dated 29.9.2000 the primary cause of death was "Terminal Cardiorespiratory Arrest" and the secondary cause of death is Pneumonia due to Pulmonary Tuberculosis with Immuno compromised state. Dr. Suri's Maternity & Surgical Home issued a certificate dated 13.11.99 mentioning that the life assured was suffering from PUO and HIV +ve. Bhakti Vedanta Hospital issued a Medical Certificate stating that the life assured was suffering from Pulmonary Koch's and HIV+ve and was under their treatment on OPD follow up basis. According to Claim Form E the life assured was on sick leave for 115 days from 23.08.99 to 15.12.99. Had he disclosed this at the time of revival the underwriter would have called for special reports. In the circumstances this Forum had no valid ground to interfere with the decision of LIC to repudiate the claim for the sum assured. Hence the claim of Smt. Anamika A Chavan for the full sum assured on the life of Shri. Anil Dattaram Chavan is not sustainable.