AHMEDABAD

Case No.22-002-0047-13
Shri Amit B. Patel Vs. SBI Life Insurance Co. Ltd.
Award dated 24th April 2013
Non receipt of Policy documents

Complainant had not received original policy documents against proposal form dated 20-07-2011 along with first Annual premium of Rs.24,784/-. According to Respondent, policy issued on 29-07-2011 and dispatched on 4.8-2011 through speed post which was never received undelivered by SBI Life. Complainant did not raise any issue for non receipt of policy documents within a year and paid 2nd renewal premium also.

Company received application for non receipt of policy after one year of issuance of policy which can not be accepted by the Respondent. Hence complaint dismissed.

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Case No.22-002-0033-13
Mr. Mukesh D. Mehta Vs. SBI Life Insurance Co. Ltd.
Award dated 30th April 2013
Repudiation of Cancellation of Policy

Complainant is a retired additional collector and after retirement he has invested Rs.30,000/- in the name of his wife to SBI Life Insurance Co. Ltd. for 5 years investment plan.

The insurance was canvassed one of the corporate agent of the Respondent and after getting the policy the complainant would like to cancel the policy and refund the money but the Respondent informed that the policy holder had not sent the cancellation application within the free look cancellation period. Complainant is not a policy holder, he has no insurable interest.

In view of this, complaint fails to succeed.

Case No.22-003-0030-13
Shri Janakkumar G. Modi Vs. Tata AIA Life Insurance Co. Ltd.
Award dated 30th April 2013
Repudiation to cancel the policy and refund the premium

The Complainant purchased a Single premium policy for S.A of Rs.43,00,000/- and premium paid amount is Rs.2,49,734/- which will be matured after 15 years and also avail a loan of Rs.17,00,000/- after 6 months. On receipt of policy complainant came to know that the policy was for regular premium basis for 15 years and maturity period is after 47 years.

Complainant immediately informed the agent to cancel the policy but Respondent stated that there is no provision to refund the premium paid amount.

The inception of the policy is at the age of 54 years and maturity will be at the age of 101 it means the agent who canvassed this policy was misused.

Therefore the forum considered favourably to the complainant and directed to the Respondent to cancel the policy and refund the premium paid amount.

In the result complaint succeeds.

Case No.22-003-0057-13
Shri Villasbhai G. Garud Vs. Tata AIA Life Insurance Co. Ltd.
Award dated 1st May 2013
Repudiation to cancel the policy and refund the premium

Complainant received a life insurance policy with annual premium of Rs.29,993/- for 15 years term and basic sum assured is Rs.3,30,000/-. Complainant appealed for cancellation of policy and refund the premium paid amount after 5 months from the receipt of policy was repudiated by the Respondent because which is beyond free look cancellation.

The insurance was canvassed one of the corporate agent of the Respondent and after getting the policy the complainant would like to cancel the policy and refund the money but the Respondent informed that the policy holder had not sent the cancellation application within the free look cancellation period.

Therefore complaint dismissed.

Case No.21-004-0060-13
Shri Nagjibhai Ganeshbhai Thakore Vs. ICICI Prudential Life Ins. Co. Ltd.
Award dated 2nd August 2013
Non receipt of interest for late payment of S.V

Complainant surrendered two policies but Surrender value received late by 27 days & 60 days so demanded interest @ 12% for late payment which was agreed by the Respondent first for 4% thereafter agreed to pay 11.5% that is higher than IRDA rate. Complainant was not attended the Hearing scheduled by this Forum.

Respondent stated that the complainant's mailing address was non receivable location hence the delay occurred.

Looking to all the complaint dismissed.

Case No.21-003-0001-14L
Shri Ranchhodbhai K. Patel Vs. Tata AIA Life Insurance Co. Ltd.
Award dated 27th August 2013
Short receipt of S.V.

Complainant had a Life Insurance Policy namely Invest Assure Gold with quarterly premium of Rs.25,000/- for 3 years. After three years Complainant surrendered the policy but S.V received only Rs.83,745.84 instead of Rs.3.00 Lacs paid by the insured giving reason that due to non fulfillment of condition No.2 of 2 years holiday provision.

As per proposal, the premium term was 5 years and policy term was 48 years, S.A Rs.9,00,000/- but the complainant paid 3 years and 4th year not paid premium so policy was in lapse condition.

Therefore complaint dismissed.

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AHMEDABAD CENTRE

Award Dated 14.06.2013
Case No. 22-010-048-13
Sri Bharat J Khaini V/S Reliance Life Co. Ltd.
Life- Misselling- Free Look Cancellation

The complaint was for misselling of policy by promising false benefits. However, he continued to pay renewal premium also & free look period was already over.

The decision of the Respondent was upheld.

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Award Dated 26.06.2013
Case No. 25-021-046-13
Smt Hiral V Patel V/S DLF Pramerica Life Insu Cp. Ltd.
Life- Misselling- Free Look Cancellation

The complaint was for misselling of policy by promising false benefits. However, she failed to prove misselling as well as free look period was over.

The decision of the Respondent was upheld.

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Award Dated 28.06.2013
Case No. 22-005-056-13
Sri O K balachandran V/S HDFC Standard Life Insu Cp. Ltd.
Life- Misselling

The policy was issued in name of wife of the complainant instead of in the name of the complainant. The Respondent agreed to issue fresh policy by canceling old policy. Thus complaint was amicably solved.

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Award Dated 27.06.2013
Case No. 22-005-055-13
Sri Shyam Tiwari V/S HDFC Standard Life Insu Cp. Ltd.
Life- Misselling

The policy was issued in name of son of the complainant instead of in the name of the complainant by promising false benefits.

The Respondent was directed to cancel the policy & refund invested money.

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Case No.22-005-0012-13
In the matter of
Complainant –Mr. Jayesh Patel
Vs
Respondent – HDFC Life Ins. Company Ltd.
Award Date: 17th day of September, 2013

Miseeling Free look period

The complaint relates to cancellation of two Life Insurance Policies after the free look period and non refund of the premium by the Respondent.
Shri Parshottambhai Patel father of the Complainant attended the hearing. He informed that Misselling was done to him by Probus Insurance Broker Ltd. His son had requested for S.I. of Rs.20000/- for 5 years policy. Also in this regard he made advance payment of Rs.1 lac in total. But Shri Avinash Rathod the Corporate Office Agent cheated and sold him two policies for premium of Rs.80000/- and Rs.20000/- for 5 years and 7 years respectively. He informed that he is not capable enough to pay Rs.1 lac for 4 more years and hence requested for either cancellation of both the policies or conversion of both the policies into one single premium policy.
The Respondent's representative Shri Viren Shah informed during hearing that the Company could have definitely refunded the payments incase the policyholder would have approached them during Freelook Cancellation Period i.e., within 30 days after receiving the Policy documents. In this case, the policyholder approached the Company after almost 3 months. Secondly, before converting the proposal into a policy, a confirmation call is done to all the customers confirming whether they have understood the scheme and whether the policy conditions are O.K. for them. He informed that at this stage, neither the cancellation of polices nor conversion of policies can be done by the Insurance Company.
The allegations of cheating etc. as argued by the complainant in writing and his father during hearing cannot be accepted for want of clear evidences. Hence it is not possible to intervene in the decision of the Respondent to reject the request of the

Policyholder – complainant for cancellation of Policies after the "Free Look Period" shown in the Policy Contract and also specified in the Respondent's Letters dated 17.12.12 and 12.1.13 sent to the policyholder.

In the result the complaint fails to succeed.

****

<u>Case No.22-005-0012-13</u>
In the matter of
Complainant –Mr. Jayesh Patel
Vs
Respondent – HDFC Life Ins. Company Ltd.
Award Date: 17th day of September, 2013

Miseeling Free look period

The complaint relates to cancellation of two Life Insurance Policies after the free look period and non refund of the premium by the Respondent.
Shri Parshottambhai Patel father of the Complainant attended the hearing. He informed that Misselling was done to him by Probus Insurance Broker Ltd. His son had requested for S.I. of Rs.20000/- for 5 years policy. Also in this regard he made advance payment of Rs.1 lac in total. But Shri Avinash Rathod the Corporate Office Agent cheated and sold him two policies for premium of Rs.80000/- and Rs.20000/- for 5 years and 7 years respectively. He informed that he is not capable enough to pay Rs.1 lac for 4 more years and hence requested for either cancellation of both the policies or conversion of both the policies into one single premium policy.
The Respondent's representative Shri Viren Shah informed during hearing that the Company could have definitely refunded the payments incase the policyholder would have approached them during Freelook Cancellation Period i.e., within 30 days after receiving the Policy documents. In this case, the policyholder approached the Company after almost 3 months. Secondly, before converting the proposal into a policy, a confirmation call is done to all the customers confirming whether they have understood the scheme and whether the policy conditions are O.K. for them. He informed that at this stage, neither the cancellation of polices nor conversion of policies can be done by the Insurance Company.

The allegations of cheating etc. as argued by the complainant in writing and his father during hearing cannot be accepted for want of clear evidences. Hence it is not possible to intervene in the decision of the Respondent to reject the request of the Policyholder – complainant for cancellation of Policies after the "Free Look Period" shown in the Policy Contract and also specified in the Respondent's Letters dated 17.12.12 and 12.1.13 sent to the policyholder.

In the result the complaint fails to succeed.

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Case No. 22-005-005-14L
Complainant: - Sanjay Kumar S. Shah
V/S
HDFC Standard Life Ins. Co. Ltd.
Award dated 10TH Sep, 2013.
Complainant has alleged that the Respondent issued new policies out of premium paid by him for renewal premium of existing policies. Complainant has not signed the proposal form and never given his photo for proposal form. While scrutinized the case file the proposal form was fabricated by the sales man of the Netambit. Hence the plea of the complainant cannot be ignored. Hence the complaint is allowed.
In the result complaint succeeds.

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Case No. 21-001-0002-14L
Complainant: - Mrs. Norah Benjamin Reuben V/S Respondent: - L.I.C.Of India
Award dated-04TH Sep, 2013.
Complainant has two single premium policies of MARKET PLUS UNIT LINKED DEFFERED ANNUITY for Rs 200000. Above policies was vested for pension on 28.12.2012. Complainant did not received any consent letter from Respondent till vesting date and Respondent has transferred the fund value Rs. 2,14000 to pension fund without her consent.
The policy holder is 65 years old lady and there are no documentary evidence to prove that any clearly explained about the salient features of the Market Plus Policy and communication sent to complainant regarding consent for pension well before date of vesting for option available in this regard.
In the result complaint fails to succeed.

****

Case No.22-005-0012-13
In the matter of
Complainant –Mr. Jayesh Patel
Vs
Respondent – HDFC Life Ins. Company Ltd.
Award Date: 17th day of September, 2013

Miseeling Free look period

The complaint relates to cancellation of two Life Insurance Policies after the free look period and non refund of the premium by the Respondent.
Shri Parshottambhai Patel father of the Complainant attended the hearing. He informed that Misselling was done to him by Probus Insurance Broker Ltd. His son had requested for S.I. of Rs.20000/- for 5 years policy. Also in this regard he made advance payment of Rs.1 lac in total. But Shri Avinash Rathod the Corporate Office Agent cheated and sold him two policies for premium of Rs.80000/- and Rs.20000/- for 5 years and 7 years respectively. He informed that he is not capable enough to pay Rs.1 lac for 4 more years and hence requested for either cancellation of both the policies or conversion of both the policies into one single premium policy.
The Respondent's representative Shri Viren Shah informed during hearing that the Company could have definitely refunded the payments incase the policyholder would have approached them during Freelook Cancellation Period i.e., within 30 days after receiving the Policy documents. In this case, the policyholder approached the Company after almost 3 months. Secondly, before converting the proposal into a policy, a confirmation call is done to all the customers confirming whether they have understood the scheme and whether the policy conditions are O.K. for them. He informed that at this stage, neither the cancellation of polices nor conversion of policies can be done by the Insurance Company.

The allegations of cheating etc. as argued by the complainant in writing and his father during hearing cannot be accepted for want of clear evidences. Hence it is not possible to intervene in the decision of the Respondent to reject the request of the Policyholder – complainant for cancellation of Policies after the "Free Look Period" shown in the Policy Contract and also specified in the Respondent's Letters dated 17.12.12 and 12.1.13 sent to the policyholder.

In the result the complaint fails to succeed.

****

Case No. 22-005-005-14L
Complainant: - Sanjay Kumar S. Shah
V/S
HDFC Standard Life Ins. Co. Ltd.
Award dated 10TH Sep, 2013.
Complainant has alleged that the Respondent issued new policies out of premium paid by him for renewal premium of existing policies. Complainant has not signed the proposal form and never given his photo for proposal form. While scrutinized the case file the proposal form was fabricated by the sales man of the Netambit. Hence the plea of the complainant cannot be ignored. Hence the complaint is allowed.
In the result complaint succeeds.

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Case No. 22-005-008-14
Complainant:- Smt. Kusumben G.Chavda V/S HDFC Standard Life Insurance Co. Ltd.
Award dated:- 26TH Sep, 2013.
Misselling of life policy product
Complainant has lodged complaint against company for mis selling of the policy by cheating of his representative. The Respondent has refused her complaint for cancellation of the policy due to complainant has approached for cancellation after free-look-period.
Considering the background of the complainant her demand of cancellation to be considered as a special case waiving the delay.
In the result complaint succeeds.

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Case No. 22-005-009-14
Complainant: - Sh. Ghanshyambhai K. Chavada V/S HDFC Standard Life Insurance Co. Ltd.
Award dated 26TH Sep, 2013.
Complainant has lodged complaint against company for mis selling of the policy by cheating of his representative. The Respondent has refused his complaint for cancellation of the policy due to complainant has approached for cancellation after free-look-period.
Considering the background of the complainant his demand of cancellation to be considered as a special case waiving the delay.
In the result complaint succeeds.

****

Case No. 21-001-0002-14L

Complainant: - Mrs. Norah Benjamin Reuben V/S Respondent: - L.I.C.Of India
Award dated-04TH Sep, 2013.

Complainant has two single premium policies of MARKET PLUS UNIT LINKED DEFFERED ANNUITY for Rs 200000. Above policies was vested for pension on 28.12.2012. Complainant did not received any consent letter from Respondent till vesting date and Respondent has transferred the fund value Rs. 2,14000 to pension fund without her consent.

The policy holder is 65 years old lady and there are no documentary evidence to prove that any clearly explained about the salient features of the Market Plus Policy and communication sent to complainant regarding consent for pension well before date of vesting for option available in this regard.

In the result complaint fails to succeed.

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Case No.22-005-0012-13

In the matter of
Complainant –Mr. Jayesh Patel
Vs
Respondent – HDFC Life Ins. Company Ltd.
Award Date: 17th day of September, 2013

Miseeling Free look period

The complaint relates to cancellation of two Life Insurance Policies after the free look period and non refund of the premium by the Respondent.

Shri Parshottambhai Patel father of the Complainant attended the hearing. He informed that Misselling was done to him by Probus Insurance Broker Ltd. His son had requested for S.I. of Rs.20000/- for 5 years policy. Also in this regard he made advance payment of Rs.1 lac in total. But Shri Avinash Rathod the Corporate Office Agent cheated and sold him two policies for premium of Rs.80000/- and Rs.20000/- for 5 years and 7 years respectively. He informed that he is not capable enough to pay Rs.1 lac for 4 more years and hence requested for either cancellation of both the policies or conversion of both the policies into one single premium policy.

The Respondent's representative Shri Viren Shah informed during hearing that the Company could have definitely refunded the payments incase the policyholder would have approached them during Freelook Cancellation Period i.e., within 30 days after receiving the Policy documents. In this case, the policyholder approached the Company after almost 3 months. Secondly, before converting the proposal into a policy, a confirmation call is done to all the customers confirming whether they have understood the scheme and whether the policy conditions are O.K. for them. He informed that at this

stage, neither the cancellation of polices nor conversion of policies can be done by the Insurance Company.

The allegations of cheating etc. as argued by the complainant in writing and his father during hearing cannot be accepted for want of clear evidences. Hence it is not possible to intervene in the decision of the Respondent to reject the request of the Policyholder – complainant for cancellation of Policies after the "Free Look Period" shown in the Policy Contract and also specified in the Respondent's Letters dated 17.12.12 and 12.1.13 sent to the policyholder.

In the result the complaint fails to succeed.

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Case No. 22-005-005-14L
Complainant: - Sanjay Kumar S. Shah
V/S
HDFC Standard Life Ins. Co. Ltd.
Award dated 10TH Sep, 2013.

Misselling of Life policy Product

Complainant has alleged that the Respondent issued new policies out of premium paid by him for renewal premium of existing policies. Complainant has not signed the proposal form and never given his photo for proposal form. While scrutinized the case file the proposal form was fabricated by the sales man of the Netambit. Hence the plea of the complainant cannot be ignored. Hence the complaint is allowed.

In the result complaint succeeds.

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Case No. 21-001-0002-14L

Complainant: - Mrs. Norah Benjamin Reuben V/S Respondent: - L.I.C.Of India
Award dated-04TH Sep, 2013.
Misselling of life assured product

Complainant has two single premium policies of MARKET PLUS UNIT LINKED DEFFERED ANNUITY for Rs 200000. Above policies was vested for pension on 28.12.2012. Complainant did not received any consent letter from Respondent till vesting date and Respondent has transferred the fund value Rs. 2,14000 to pension fund without her consent.

The policy holder is 65 years old lady and there are no documentary evidence to prove that any clearly explained about the salient features of the Market Plus Policy and communication sent to complainant regarding consent for pension well before date of vesting for option available in this regard.

In the result complaint fails to succeed.

BHOPAL
OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Mr. Dinesh Kumar…… Complainant

V/S

Kotak Mahindra Old Mutual Life Insurance Ltd……Respondent

Order No. BPL/LI/ 13-14/ **Case No. LI/KTK/46-20/05-10/MUM**

Brief Background:

This complaint has been filed by complainant Mr. Dinesh Kumar as a policyholder of policy bearing no. 01177772 for Sum Assured of Rs. 5 lacs for a term of 20 years praying therein to cancel his above policy and refund the premium amount Rs. 50,000/- with interest to the complainant by the respondent.

As per the complaint, the complainant Mr. Dinesh Kumar had taken insurance policy from Kotak Mahindra Old Mutual Life Insurance Ltd vide policy bearing no. 01177772 under the Plan Description Unit Linked Endowment Assurance Plan and at the time of taking policy, the agent told him that he had to deposit the money at one time and after 5 years he would get Rs. One Lac and relying on the agent he took the policy. At the time of filling form, the agent did not tell anything to complainant rather he had taken his signature on the form but it was converted into a regular annual plan for 20 years for Rs. 50,000/- and when he received phone call regarding the dues of second premium from the company then he learnt that he was cheated and according to his condition he could not deposit Rs. 50,000/- for 20 years, so he has prayed to cancel his above policy and to refund Rs. 50,000/- with interest. It is further said that he has also sent letter to Respondent Insurance Company which is undated through Registered Post

dt. 13.04.2010 but the Respondent Company did not refund the premium amount paid by the complainant and no reply was given.

Being aggrieved with the action of the respondent, the complainant lodged the complaint on 17.05.2010 in this office seeking direction to respondent company to refund his premium amount with interest. Accordingly, the complaint was registered in this office on 18.05.2010 and prescribed forms were issued to the complainant and letter was also issued to Respondent Insurance Company for submitting Self-contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent Insurance Company has mentioned in its Self-contained note that complainant Mr. Dinesh Kumar the policyholder with an intention to purchase a life insurance policy and after being satisfied with the plan submitted duly filled and signed proposal form dt. 26.07.2008 wherein the complainant had specified the plan named Kotak Smart Advantage Plan and had specifically opted for premium payment term of 20 years and the complainant also paid Rs. 50,000/- along with the proposal form towards proposal deposit for which he was issued Proposal Deposit Receipt dt. 28.07.2008 and as a proof of understanding the Plan, the complainant also signed and submitted the "Benefit Illustration" at the time of applying for the policy which categorically provides the details of the plan and it was clearly stated that premium payment term was 20 years and policy was for 20 years and also details of charges were stated therein. Accordingly, the proposal was processed and on the basis of details provided in the proposal form, policy was issued to the complainant on 01.08.2008 and was delivered to the complainant at his specified address in the proposal form and along with the policy contract, the copy of proposal form, benefit illustration, were also enclosed and in case of any discrepancy, the policyholder could get back to the company to clarify any discrepancy and the complainant was also provided with an option to cancel the policy and get the money refunded in case the policyholder is not agreeable to any of the provisions stated in the policy documents and the welcome letter and clause no. 18 of the policy contract clearly provides that in case he wishes to reconsider his decision to hold the policy, he has the

option of returning the original policy to them within 15 days from the date of receipt of the policy and the premium would be refunded to the complainant after deducting the stamp duty, medical expenses etc. but despite the same, the complainant could not opt for Free Look Cancellation and continued with the policy which implies that he was satisfied with the policy and he never made any complaint about the policy issued and continued with the policy and the allegation made in the complaint has been totally denied and the entire allegation is false and baseless and it has been made to get benefits out of his unjustified demands and the complainant is an educated person and was well-versed of terms and conditions of the policy contract and there was no false commitment on the part of respondent company and company had acted diligently and prayed to dismiss the complainant and absolve from any further obligations.

For the sake of natural justice, hearing was held on 12.08.013 at Bhopal and sincere efforts were made to resolve the subject matter of complaint i.e. the claim of refund of premium amount of Rs. 50,000/- to the complainant after cancelling the policy document. The Complainant Mr. Dinesh Kumar presented himself as well as the Representative Shri Sumit Arya and Tausif Ahmed of the respondent Company were heard but respondent was not ready to settle the subject matter of the complaint on the ground of bar of the policy conditions.

<u>OBSERVATIONS</u>:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the complainant had taken insurance policy bearing no. 01177772 under the Plan Description Unit Linked Endowment Assurance Plan and Plan named Kotak Smart Advantage bearing no. 01177772 on payment of Rs. 50,000/- as first premium which commenced on 01.08.2008. It is also admitted fact that the complainant policyholder had signed on the proposal form for taking the said policy and also paid Rs. 50,000/- towards premium but the complainant has not accepted in the complaint that he

has taken the said policy for a term of 20 years on payment of Rs. 50,000/- as annual premium rather he has made allegation that the agent did not tell anything at the time of filling the proposal form and got his signature only and it was also told that he would get Rs. One lac after 5 years. The complainant has reiterated the version made in the complaint petition during course of hearing and he has stated that he has not opted for the policy as stated above and he was not aware of any terms and conditions of the policy and nothing was told by the agent and relying on the agent's version he signed on the proposal form as such he has been defrauded by the company and he is entitled for total premium amount refund of Rs. 50,000/-. On the other hand, it has been submitted on behalf of the respondent company that since the complainant is an educated person and was well-versed with the terms and conditions as mentioned in the proposal form as narrated by the insurance advisor of the insurance company and the complainant himself signed on proposal form which has been duly filled as per statement given by the complainant to the agent and the complainant willingly paid the premium amount through cheque for the said insurance plan as opted by him and further submitted that even if complainant was dissatisfied with any terms and conditions of the policy after receipt of the said policy, he could have returned the policy document within 15 days from date of receipt of policy but he did not make any complaint regarding any terms and conditions of the policy or return the said policy in case of any discrepancy about terms and conditions of policy document and the allegation of cheating by mis-selling is totally false and baseless and lastly submitted that the respondent insurance company has also paid Rs. 5000/- as per terms and conditions of the policy document on the ground that no premium were paid in subsequent year nor policy was revived till the end of revival period, so the complainant is not entitled to refund of premium amount Rs. 50,000/- as per terms and conditions of the policy document.

From the perusal of Proposal form submitted by the complainant himself, it is apparent that proposal form is duly filled in and signed by complainant himself on 26.07.2008 in English and he has also appended his signature on his photograph and it is clearly mentioned that the name of the plan was Kotak Smart Advantage and policy term was 20 years for sum assured was Rs. 5 lacs and premium amount was Rs. 50,000/- which

was paid by the complainant through cheque no. 209482 dt. 26.07.2008 amounting Rs. 50,000/- drawn on State Bank of India. It also appears from the perusal of the said proposal form (Xerox copy) that there is a declaration of complainant himself that he is submitting the proposal form after having read and understood the product feature, benefit, risk factors, structure of changes, terms and conditions of the proposed plan set forth in the related brochure and submit his duly acknowledged sales illustration confirming his understanding of plan for which the proposal form is being submitted. Since the complainant has himself signed in English below the declaration as printed, so he could not say that he does not understand English language and could not read the above declaration, which was to be given by him. The advisor of the said company Ms. Raj Kumari Tomar who has also signed below the declaration that she has explained all the contents of the proposal form including the nature of the questions contained in the proposal form to the proposer. The complainant could not satisfy that nothing was told by the agent at the time of filling the proposal form. It is expected from educated consumers that he must go through the terms and conditions of the policy document as well as the declaration made in the proposal form before taking any policy, so this case cannot be said to the case of mis-sale. From perusal of the welcome letter sent to the complainant by the respondent insurance company it is also apparent that the option was given to the complainant to return the policy within 15 days if he reconsiders his decision to hold the policy and only then the company would refund the premium paid by him after deducting stamp duty, medical expenses etc. and it is admitted fact that the complainant did not avail the above option and failed to show any satisfactory reason for not opting the same. From perusal of the policy document, it appears that it has been clearly mentioned in the heading "Lapse" serial no. 4 that "if full first years' premiums are paid and no premiums are paid in subsequent years and the policy is not revived till the end of the revival period, the surrender value will be 10% of the basic premium received" and in accordance with the terms and conditions, the respondent has already paid Rs. 5000/- i.e. 10% of basic premium received to the complainant which has been admitted by complainant also. Thus from the above facts, it is established that the complainant could not prove the allegation of cheating and mis-sale as alleged in the complaint petition regarding the said policy.

On consideration of the above facts and circumstances, submissions made and material on

record and contentions made by both the parties, I am of the considered view that the complainant is not entitled to get the refund of Rs. 50,000/- (Fifty Thousand) only as first premium paid by him as claimed by him in the complaint against the respondent insurance company. Being devoid of merits, this complaint stands dismissed.

Both the parties shall bear their own cost of proceeding in this forum.

Let a copy of order be sent to the Complainant and the Insurance Company.

Dated at BHOPAL on 14th day of August, 2013 **(R.K. SRIVASTAVA)**

INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
Janak Vihar Complex, IInd Floor, 6, Malviya Nagar, Bhopal-462003, Phone: 0755-2769201, 2769202, Fax: 0755-2769203, E-mail: bimalokpalbhopal@gmail.com

Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Prem Narayan Arya.. .. ……..Complainant

VS.

HDFC Standard Life Insurance Co. Ltd…….. Respondent

Order No. BPL/LI/13-14/012 **Case No. LI/HDFC/305-22/01-10/MUM**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

The complainant Mr. Prem Narayan Arya has filed a complaint praying therein to close the policy bearing no. 13143859 but wrongly mentioned in form P-II as 1314859 and to make payment of the payable amount.

As per complaint, the complainant Mr. Prem Narayan Arya had taken a pension plan policy on the basis of payment of monthly premium Rs. 500/- and without his consent the Respondent Insurance Company started deducting Rs. 2500/- from his Bank A/c 6384 of Bank of India. The Complainant also sent a letter to Respondent HDFC Standard Life Insurance Company for cancellation of its Unit linked Pension policy bearing no. 13143859 as appears from letter dt. 11.02.2010 of the Respondent Company who informed the complainant that since the company did not receive the cancellation request within the 15 days free look period, so they are unable to process the refund of premium paid towards the policy and advised the complainant to continue the policy till the end of the term to reap the full benefits of the plan.

Being aggrieved with the reply of the Respondent HDFC Standard Life Insurance Company Ltd. that the complainant lodged the complaint on 21.01.2010 before this forum which was registered on 27.01.2010. The letters were issued to complainant as well as respondent to submit the required forms as well as self-contained note respectively and both the parties submitted the required forms and self-contained note accordingly.

Order No. BPL/LI/13-14/012 **Case No. LI/HDFC/305-22/01-10**

The Respondent has contended in his self-contained note that Mr. Prem Narayan Arya the complainant was made understand about the Unit Linked Pension Plan after the request made by the complainant on 10.09.2009 and the complainant for taking said plan opted for period of 15 years and for payment of premium as Rs. 2500/- p.m. and also paid Rs. 7000/- through cheque bearing no. 260128 dt. 10.09.2009 of Bank of India branch Bhopal

and also paid cash Rs. 500/- and after understanding the entire quotation/illustration handed over the same after signing to the company and the proposal form was also filled in and signed by the complainant and along with the proposal form, debit mandate form was also handed over by the complainant to deduct the further premium amounting Rs. 2500/- p.m. from his Bank A/c and after completing the formalities, the policy was issued on 18.09.2009 bearing no. 13143859 which was received by the complainant on 19.09.2009 and the copy of the proposal form and other copy of the documents were also sent to compare the entries and if we wanted to make any correction or to return the same, if not satisfied according to the terms & conditions of the policy, he could return the said policy within free look period of 15 days from the date of receipt of policy along with application form and the detail information about option to return was mentioned on the covering letter along with the policy and no application was filed by the complainant about cancellation of the policy within free look period after receipt of the policy and the policy conditions are binding upon both the parties and the complainant after being satisfied with the services of the company, the further renewal premium were also got deposited and no complaint was made for any laches of the Respondent and the company also sent the reply of the complainant on 29.12.2009 made by the complainant and the allegation about no knowledge of the fact and the said amount of premium was totally false and baseless and prayed to dismiss the complaint.

For the sake of natural justice, hearing was held on 09.07.013 at Bhopal and both the parties were heard and some necessary documents were also filed by the complainant. During course of hearing, sincere efforts were made to resolve the dispute by way of mediation but the representative Mr. Ram Niranjan Chaturvedi, Zonal Legal Head of the respondent Company was not ready to settle the subject matter of the complaint on the ground of bar of the policy conditions.

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Order No. BPL/LI/13-14/012 **Case No. LI/HDFC/305-22/01-10**

It has been stated by the complainant who presented himself that he has taken Unit Linked Pension Policy on the monthly premium Rs. 500/- only but the amount of Rs. 2500/- has been shown in the proposal form by the Agent and his forged signature has also been affixed on some other documents which was sent by the company and he never consented about the monthly premium of Rs. 2500/- p.m. towards the said policy and he has been misrepresented and cheated by the Respondent Company, so he prayed for cancellation of the said policy to the Respondent which was refused on the ground of condition of 15 days free look period and he was not aware of any such stipulated condition for cancellation of the said policy and prayed to make payment of the amount due to the Respondent regarding the premium paid.

On the other hand, the authorized Representative Mr. Ram Niranjan Chaturvedi, Zonal Legal Head of the said Insurance Company refuted the contentions of the complainant and submitted that the entire allegation of misrepresentation and cheating or misselling is totally false and baseless as the complainant himself opted for the said plan of monthly premium of Rs. 2500/- for period of 15 years and he himself issued the cheque no. 260128 dt. 10.09.2009 in favour of HDFC Standard Life amounting Rs. 7000/- and 500/- cash towards 3 month's premium and also handed over the mandate form for direct debit mentioning his A/c No. 6384 of Bank of India for deducting mount Rs. 2500/- as monthly premium for the said policy, so the complainant cannot say that there was any pressure, misrepresentation or cheating or missellingfor taking the said policy from the Respondent Company and also submitted that the complainant did not sent any application for cancellation of his above said policy within 15 days from date of receipt of the policy which was option to the complainant to return or withdraw of the policy document, if not satisfied with the terms and conditions of the policy document, so due to the above terms and conditions the cancellation request was not made within 15 days free look period, so the company is not entitled for refund of the premiums paid towards the policy and prayed to dismiss the complaint.

Order No. BPL/LI/13-14/012 **Case No. LI/HDFC/305-22/01-10**

OBSERVATIONS:-

I have gone through the material placed on the record and submissions made during hearing. My observations are summarized as under:-

It is an admitted fact that the complainant Mr. Prem Narayan Arya had taken Unit Linked Pension Plan bearing policy no. 13143859 for Life Assured for period of 15 years on payment of monthly premium Rs. 2500/- which was issued by the Respondent Company in the name of the complainant Mr. Prem Narayan Arya which was received by the policyholder on 19.09.2009 subject to terms and conditions of the said policy. It is also admitted that the request was made to cancel the policy and to refund the premiums paid towards the policy by the complainant from the Respondent Company which was refused by the Respondent Company.

From the close perusal of P-II form, it appears that the complainant has even not mentioned the correct policy no. and has not filled up about the facts of the case nor office address of the company and the column no. 5 to 11 are blank and he has also not signed even in P-II form which reflects his sincerity towards the claim. His signature in English also shows that he is a literate person. From perusal of the proposal form (xerox copy), it appears that complainant has signed on the proposal form and he has also signed on Mandate form for Direct Debit in English. From perusal of the cheque no. 260128, it is also apparent that the complainant has issued cheque no. 260128 dt. 10.09.2009 in favour of HDFC Standard Life Insurance company and he also paid cash Rs. 500/- towards 3 month's premium as per proposal form respectively.

From perusal of the policy document bearing no. 13143859, it appears that it has been clearly mentioned on the heading of cancellation in the free look period that "in case you are not agreeable to any of the provisions stated in the policy and the details in the

proposal form, you have the option of returning the policy to us stating the reasons thereof, within 15 days from the date of receipt of the policy. On receipt of your letter along with the original policy documents, we shall arrange to refund the value of units allocated to you on the date of receipt of request plus the unallocated part of the premium plus charges levied by cancellation of units, subjects to deduction of the stamp duty. A policy once returned shall not be revived, reinstated or restored at any point of time and a new proposal will have to be made for a new policy."

Order No. BPL/LI/13-14/012 Case No. LI/HDFC/305-22/01-10

From perusal of the xerox copy of the courier Blue Dart, it appears that the policy document was sent on 17.09.2009 to the complainant which was received by his wife on 19.09.2009. The complainant sent the cancellation letter in the month of December'2009 i.e. more than 15 days of the free look period and it also appears that complainant also paid a further premium which was deducted as per his Mandate form for direct debit. Thus, if is apparent that complainant did not avail the free look period for cancellation of his policy document if he was not satisfied rather he sent a letter for cancellation of his policy to the Respondent company after passing of more than 3 months beyond 15 days of free look period for cancellation and the complainant has failed to show the reasons for not availing such option to return or withdrawal of the policy within 15 days free look period.

The Respondent Insurance Company has also filed a calculation chart about Life Assured payable amount as per policy terms and conditions as on date of lapsed termination and the above letter shows no amount is payable as Life Assured to the company and the said policy no. 13143859 of the complainant is lapsed terminated.

Taking into consideration the above facts, circumstances, material placed on record and contentions made by both the parties, I arrive at the conclusion that the refusal of claim by HDFC Standard Life Insurance Company Ltd. about refund of premiums invoking the provisions of free look period as contained in the policy document is in order and

does not warrant interference by this authority. Being devoid of merits, this complaint stands dismissed. Both the party shall bear their own cost of proceeding.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 12th day of July, 2013 **(R.K. SRIVASTAVA)**
INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
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Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Dr. M.S. Pawar…… Complainant

V/S

HDFC Std. Life Insurance Co. Ltd……..Respondent

Order No. BPL/LI/ 13-14/015 **Case No. LI/HDFC/32-20/05-10/MUM**

Brief Background:

This complaint has been filed by Dr. M.S. Pawar as a policyholder bearing no. 11279519 for Sum Assured of Rs. 2 lacs annual premium of Rs. 30,000/- for term of 10 years under Unit Linked Endowment Plan which commenced on 17.09.2007 with a prayer to refund his premium with interest

As per the complaint, the complainant Dr. M.S. Pawar had taken insurance policy from HDFC Standard Life Insurance Co. Ltd. vide policy bearing no. 11279519 with the understanding that the policy was concerned with Diabetic which he had taken from the company and signed all the papers as told by the Agent and premium was deducted through ECS from his Bank Account for 4 months and after that the complainant received a letter from the Respondent Company that his policy has been cancelled with the reason that he was a diabetic patient as such the policy could not be continued and he sent a request letter to refund his premium but his request was turned down on the ground that the cancellation request was not received within 15 days free look period , so the Respondent company was unable to process about refund of premium paid towards the policy.

Being aggrieved with the action of the respondent, the complainant lodged the complaint on 11.05.2010 in this office seeking direction to respondent company to refund his premium with interest. Accordingly, the complaint was registered in this office on 12.05.2010 and prescribed forms were issued to the complainant and letter was also issued to Respondent said Insurance Company for submitting Self-contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent insurance company has mentioned in its Self-contained note that complainant had submitted a proposal form duly filled and signed for a Unit Linked Endowment Plan with life option on 12.09.2007 at Bhopal Branch of the Respondent company with an annual premium of Rs. 30,000/- for term of 10 years for sum assured of Rs. 2 lacs and premium was monthly and in response to Clause 12 of the proposal form "Personal Medical Details", the complaint had declared that he was not suffering from any disease and was not under medication for any ailment. Further he had also declared that he was not suffering from diabetes" and on the basis of proposal form, the policy was issued with covering letter dt. 18.09.2007 which was delivered to the complainant at his address and other relevant documents and copy of proposal form were also sent with the policy document and there was option to return the policy within 15 days from date of receipt of policy which was the free look period but the complainant did not avail the free

look period option to return if he was dissatisfied with the policy terms and conditions and since the complainant gave incorrect information and did not disclose about suffering from any disease such as diabetes or about any medication as such the complainant had obtained the said policy by non-disclosure of material facts related to his health and complainant after taking the said policy submitted proposal form on 12.11.2007 for other policy for sum assured Rs. 5 lacs for an annual premium of Rs. 40,000/- for a term of 10 years with quarterly premium declaring that he was not suffering from diabetes but on medical check up, it was found that complainant had elevated sugar levels and was suffering from diabetes since last 10 years and had also undergone Angioplasty for blockage one year back and due to above reason the other policy was not issued and earlier policy was treated as void and was cancelled and allegation of missale was false. The complainant is not entitled for any relief and prayed to dismiss the complaint.

For the sake of natural justice, hearing was held on 16.07.013 at Bhopal and sincere efforts were made to resolve the dispute i.e. to refund of amount of premium paid. The complainant Dr. M.S. Pawar presented himself as well as the representative of the respondent Company Shri Ramniranjan Chaturvedi, Legal Manager, HDFC Standard Life Insurance Co. Ltd. were heard.

The Respondent represented by Shri, Ramniranjan Chaturvedi, Legal Manager, HDFC Standard Life Insurance Co. Ltd. as well as the complainant Dr. M.S. Pawar presented himself and both the parties have filed separate applications mentioning therein about the refund of amount of premium paid on the basis of mutual agreement for an amount of Rs. 9900/- (Nine Thousand Nine Hundred Only) towards full & final settlement of the claim & both the parties have also orally agreed mutually to settle the claim full & final in respect of the subject matter of the complaint for Rs. 9900/- (Nine Thousand Nine Hundred Only).

Under the aforesaid facts, circumstances & mutual agreement, I feel just, fair & equitable to make following recommendations about settlement of the claim as full & final on the basis of mutual agreement with both the parties.

1. **The Respondent HDFC Std. Life Insurance Co. Ltd. shall pay Rs. 9900/- (Nine Thousand Nine Hundred Only) to the complainant on the basis of said policy document within 15 days from date of receipt of acceptance letter from the complainant failing which it will attract a simple interest of 9% p.a. from the date of this order to the date of actual payment.**
2. **Both the parties shall bear their own cost of proceeding in this forum.**

Let a copy of order be sent to the Complainant and the Insurance Company.

Dated at BHOPAL on 16th day of July, 2013 **(R.K. SRIVASTAVA)**

INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL
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Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Mr. Naveen L. Naik ……Complainant

V/S

ICICI Prudential Life Insurance Co. Ltd……Respondent

Order No. IO/BHP/A/LI/0059/2013-14 **Case No. ICICI/219-20/02-11/BPL**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This case has been filed by the complainant Mr. Naveen L. Naik being policyholder of policy no. 14209762 as per letter dt. 10.02.2011 praying therein to direct the Respondent ICICI Prudential Life Insurance Co. Ltd. for cancellation of policy and to refund the premium amount.

As per complaint, the complainant Mr. Naveen L. Naik was made a victim of fraud by using fraudulent practices to enforce policies by the Employees / Agents of ICICI Prudential Life Insurance Co. Ltd. particularly from Delhi area. He has worked as an advisor in ICICI Prudential Bhopal and just to expose this type of racket, he took a chance thinking that his money would be safe and ICICI Prudential would take some action. The complainant has alleged that the offer was not made for policy but for investment only and it was one time payment for profit sharing scheme benefitting the customer and the company as well in saving tax and the procedure for payment was to fill up policy application form and payment by cheque and he was informed that the scheme was genuine and his policy document bearing no. 14166988 was received first and on basis of free look period for cancellation, the said policy was cancelled and money was refunded. It is further said that the second policy was sent back as he was out of station at Mumbai. He conveyed on phone about the incident and requested either to cancel the policy or provide document as per the scheme explained and he was informed that policy will be cancelled and the documents as per the profit sharing scheme will be sent and thereafter he wrote a letter dt. 09.12.2010 giving details of fraudulent ways used for enforcing two policies and he could cancel one policy and on 10.02.2011 he received premium payment intimation through which he came to know about the policy no and the name of the policy and the Respondent ICICI Prudential has not taken any action in sending the policy document again as the customer's have right to go through the policy document and avail 15 days free look period.

Being aggrieved with the action of the respondent, the complainant lodged a complaint on 11.02.2011 in this office seeking direction to the Respondent for cancellation of policy and refund of premium amount of Rs. One lac. Accordingly, the complaint was registered in this office on 21.02.2011 and prescribed forms were issued to

the complainant and letter was also issued to Respondent Insurance Company for submitting Self Contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note (Xerox copy) respectively.

The Respondent Insurance Company has clearly denied all the allegations made in the complaint regarding any fraudulent practices to enforce the policies and has clearly mentioned that the complainant never approached the insurance company with his present concern before approaching this forum and the Respondent Insurance Company has denied about the receipt of the complainant's letter dt. 14.01.2011. The Respondent Insurance Company has also contended in the Self-contained note that the letter dt. 09.12.2010 enclosed with the subject complaint was duly replied by the company vide their letter dt. 22.12.2010 and the complainant did not raise any concern with respect to non-delivery of the subject policy in the letter dt. 09.12.2010 rather the said letter was pertaining to complainant's other policy no. 14166988 which was already cancelled by him under the free look provision on 08.09.2010. It has further been contended in self-contained note that subject policy was issued on 29.08.2010 and policy documents were duly dispatched to the complainant at registered address on 11.09.2010 through Blue Dart Courier vide AWB No. 43672393214 and the same was returned to origin on 18.09.2010 citing reason "Consignee Refused to Accept" and vide letter dt. 21.03.2011 the policy document were re-dispatched and prayed to close the complaint.

For the sake of natural justice, hearing was held today 17.09.2013 at Bhopal & sincere efforts were made during mediation to resolve the subject matter of complaint i.e. the claim of cancellation of policy and refund of premium of Rs. One lac as mentioned in P-II form and both the parties were also heard during course of mediation. The Respondent represented by Shri Ramesh Singh Chouhan, Cluster Manager of the said Insurance Company as well as the complainant Mr. Naveen L. Naik presented himself and both the parties have filed separate application mentioning therein about settlement of the claim mutually for an amount of Rs. One lac towards full and final settlement of the claim and both the parties have also orally agreed mutually by giving voluntarily consent

to settle the claim full and final in respect of the subject matter of the complaint for Rs. One lac only.

Under the aforesaid facts, circumstances & mutual agreement, I feel just, fair & equitable to make following recommendations about settlement of the claim as full & final on the basis of mutual agreement with both the parties:-

1. **The Respondent ICICI Prudential Life Insurance Co. Ltd. shall pay Rs. Rs. One Lac Only as refund of premium amount after cancelling the said policy document to the complainant towards full and final settlement of the claim as made in the complaint petition on the basis of the policy document within 15 days from date of receipt of acceptance letter from the complainant failing which it will attract a simple interest of 9% p.a. from the date of this order to the date of actual payment.**

2. **Both the parties shall bear their own cost of proceeding in this forum.**

Let a copy of recommendation be sent to the Complainant and the Insurance Company concerned with direction to send letter of acceptance to the Ombudsman.

Dated at BHOPAL on 17th day of September, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN
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Before the Insurance Ombudsman for M.P & Chhattisgarh
In the matter of

Smt. Vedvati Patel……Complainant

VS.

Life Insurance Corporation of India……..Respondent

Order No. **Case No. LIC/01-23/04-13/BSPR**

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This complaint has been filed by the complainant Smt. Vedvati Patel being policyholder of Bima Gold Policy no. 383990810 and Jeevan Anand with Accident Benefit policy no. 385547147 issued by Life Insurance Corporation of India praying therein to direct the Respondent Insurance Company to make payment towards her accident disability claim for Rs. 6 Lacs.

As per complaint, the complainant Smt. Vedvati Patel had taken a Bima Gold Policy no. 383990810 for Sum Assured of Rs. 5 lacs under basic plan and S.A. of Rs. 5 lacs under accident benefit rider on payment of yearly premium of Rs. 21852/- and Rs. 500/- respectively total Rs. 22352/- and another policy Jeevan Anand with profit and accident benefit bearing policy no. 385547147 for S.A. of Rs. one lac on yearly premium of Rs. 7818/- with period of commencement from 14.09.2005 and 22.01.2008 respectively for term of 20 years and 17 years respectively and Shri Rajendra Kumar Patel her son was made nominee by the Life Assured which was issued by the respondent insurance company and received by the complainant subject to terms and conditions. It is further

said that the Life Assured the complainant Smt. Vedvati Patel met in an accident due to slip in the bathroom on 10.05.2012 and was under treatment in Visharad Hospital, Raipur (C.G.) but even after treatment she could not recover her health and has become unable to perform her daily nature related activities and she has also been given personal disability certificate issued by District Medical Board, Janjgir Champa, (C.G.) and she lodged her claim on the basis of her personal disability certificate in the Branch Office Naila (C.G.) and Divisional Office, Bilaspur on 03.10.2012 and she was given claim forms on 03.10.2012 and after filling the claim form the same was submitted on 09.10.2012 in Branch Office and it was told vide letter dt. 10.10.2012 issued by manager (claims), Divisional Office, Bilaspur (C.G.) to submit the same along with disability certificate in the Branch Office and the same was submitted by her on 07.12.2012 in the Branch Office regarding giving her claim and the Branch Manager of the said office vide his letter dt. 25.11.2012 which was received on 18.12.2012 informed her that her claim on ground of disability on the basis of the said policy has been rejected vide order dt. 23.11.2012 by the Divisional Office on the basis of her claim documents and no reasons has been shown about rejecting her claim which is against the rules and regulation of IRDA and a petition was also filed after rejection of her claim before Claim Review Committee, Head Office, Mumbai on 01.01.2013 and assurance was only being given but no action was taken in this regard according to law.

Being aggrieved from the action of the Respondent Company, the complainant lodged the complaint on 18.03.2013 before this forum seeking direction against Respondent Insurance Company to make payment of her accident claim amount to the disabled complainant and the complaint was registered in this office on 09.04.2013 and prescribed forms were issued to the complainant & letter was also sent to the Respondent for filing Self-Contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent has mentioned in Self-contained note submitted on behalf of Respondent Insurance Company that the percentage of the disability on the basis of the certificate issued by the Medical Board to the insured was 50% which was less than 100%

for giving disability benefit by the Corporation, so the disability benefit is not payable and the information regarding not giving the benefit of disability has been given to the insured vide letter dt. 23.11.2012 sent to the insured complainant Smt. Vedvati Patel with reference to the above said two policies which is attached with the self-contained note.

For the sake of natural justice, hearing was held on 09.09.013 at Bhopal and sincere efforts were made during mediation to resolve the subject matter of dispute i.e. accidental claim on the ground of disability of the complainant for amounting Rs. 6 lacs, but the respondent company was not ready to settle the dispute on the basis of mutual agreement on the ground that the percentage of disability has been found only 50% of the insured on the basis of certificate issued by Medical Board. The husband of the complainant Mr. B.K. Patel duly authorized by the insured complainant to present her case before this forum on the ground of her disability and allowed by this forum under the special circumstances presented himself and also assisted by his son Mr. R.K. Patel for providing him necessary documents as well as Mr. S.K. Modi, Manager (CRM) of the Respondent Insurance Company were heard.

The authorized representative of the complainant Mr. B.K. Patel the husband of the insured reiterated the version made in the complaint and stated that due to accident by slipping in the bathroom his wife the insured was treated in the said hospital but could not recover and has become unable to perform her daily nature related activities and the personal disability certificate has also been issued by the Medical Board and accidental claim was lodged on the ground of disability before the Respondent Insurance Company but without assigning any reason and issuing the claim form on 03.10.2012 rejected the said claim vide letter dt. 25.11.2012 which was received on 18.12.2012 which was quiet illegal and contrary to the provisions of IRDA Act and during course of hearing and making submissions, the husband of the insured complainant has shown rigidity to allow the said claim made on the basis of her permanent disability irrespective of any percentage and contended that he does not abide by any such terms and conditions of the respondent insurance company about any total disability as his wife is totally unable to move and to perform her day to day work. During course of hearing, the Xerox copy of certified copy of order sheet of pre-litigation case no. 49/12 dt. 19.12.2012 and

20.01.2013 along with Xerox copy of the application no. 337/13 and also the Xerox copy of the certified copy of order dt. 29.07.2013 passed by the Hon'ble High Court, C.G. Bilaspur in writ petition (C) no. 1057/13 and also Xerox copy of certified copy of writ petition no. 1057/13 (one page of cause title) have been filed on behalf of insured complainant by her husband representing her and the husband of the complainant has also admitted during course of hearing after filing of the said documents that above said two cases were filed in the said courts which have been disposed off and during query about mentioning the word "Nahi hai" about filing and pendency of any case on the same subject matter before any court / consumer forum / arbitrator in the P-II form the husband of the insured admitted about the said entry in the P-II form saying that he was not aware with the rules and regulations of this forum and also became irritated when above query was made.

On the other hand, the representative Mr. S.K. Modi of the respondent Insurance Company has refuted the contentions made on behalf of the complainant except the factum of said accident which caused the disability of the insured complainant upto only 50% as per certificate issued by Medical Board and contended that as per terms and conditions of both the above said policies, the disability as mentioned in policy condition must be disability which is the result of an accident and must be "total and permanent" and laid emphasis that the said disability must be whole i.e. 100% which is the meaning of total while as per Medical Board Certificate issued to the complainant about her disability shows only 50% about her physical disability which does not come under the purview of the terms and conditions of the policy document to entitle her to get her claim on the basis of said accident which caused said disability and so, on the basis of the said Medical Board Certificate about 50% disability, the claim was not found payable and as such the claim of the complainant insured was rejected only on the said sole ground and the complainant is not entitled for any claim as made on the said ground and also referred a ruling reported in case of Ajay Kumar Vs. LICI (2007) CPJ 230 (NC).

<u>OBSERVATIONS</u>:-

I have gone through the material placed on the record and contentions made on behalf of both the parties during hearing. My observations are summarized as under:-

It is an admitted fact that the insured complainant was covered under the above said two policies towards accident benefit also for sum assured Rs. 5 lacs and Rs. One lac respectively and both the policies were issued and received by the complainant subject to terms and conditions of the policy documents. It is also admitted fact that the complainant insured met in an accident by slipping in bathroom on 10.05.2012 and was treated in the said hospital in Raipur. It is also admitted fact that the District Medical Board, Janjgir-Champa has issued a certificate with disability to the insured complainant on 28.09.2012 and a concession certificate has also been issued to the complainant insured on 28.09.2012 showing the physical disability for 50% on account of bilateral AVN Hip. From perusal of the Xerox copy of the disability certificate submitted by the complainant insured issued by District Medical Board, Janjgir-Champa dt. 28.09.2012 clearly shows that after medical examination by the said medical board of the insured complainant, it was found a case of Bilateral AVN Hip and she has also been found physically disabled and has 50% permanent disability and has been recommended for reassessment after a period of 3 years and the above certificate also contains the signature of the insured complainant. The terms and condition attached with the policy document clearly provides that the disability above referred must be disability which is the result of an accident and must be TOTAL and PERMANENT and such that there is neither then nor at any time thereafter any work, occupation or profession that the life assured can ever sufficiently do or follow to earn or obtain any wages, compensation or profit. Accidental injuries which independently of all other causes and within 180 days from the happening of such accident, result in the irrecoverable loss of the entire sight of both eyes or in the amputation of both hands at or above the wrists 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, shall also be deemed to constitute such disability. It is crystal clear from the above terms and conditions that the disability must be total meaning thereby the disability must be entire / whole and 100% as well as permanent while it is apparent from the certificate issued by the said Medical Board to the insured complainant Smt. Vedvati Patel that the disability has been found only 50% though

permanent which does not fulfill the terms and conditions of the policy document to get the claim made by the insured complainant before the Respondent Insurance Company.

From perusal of the order sheet of pre-litigation case no. 49/12 of order dt. 19.12.2012 and 20.01.2013 it is clear that the insured complainant filed a case before District Legal Services Authority Janjgir (C.G.) regarding redressal of her disability benefit on the basis of above said policy document which was dismissed on 20.01.2013 due to absence of both the parties which clearly shows that the insured complainant before filing complaint in this forum on 18.03.2013 had filed a case before the District Legal Services Authority under which Lok Adalat is constituted and performs its functions and entertains the pre-litigation cases also and the said case has been disposed off by the said court. On perusal of the order dt. 29.07.2013, it transpires that the insured complainant has also filed a writ petition before the Hon'ble Court seeking direction towards redressal of her grievance making party to this forum also apart from respondent insurance company and has filed only one page which contains the cause title and has not filed the copy of the entire writ petition to show the detail facts and relief claimed before the Hon'ble Court regarding her grievance towards claim of her insurance for the reasons best known to the insured complainant and her representative Mr. B.K. Patel her husband who failed to satisfy about non-filing of all copies of the writ petition which reflects that the complainant insured or her representative has deliberately withheld and did not file the said documents earlier and has also answered in "negative" about filing and pendency or disposal of a case on same subject matter before any court/consumer forum/arbitrator in Column No. 7 of P-II form. Rule 13 (3) (c) of RPG Rule, 1998 clearly creates a bar about filing any complaint on the same subject matter for which any proceedings before any court or consumer form or arbitrator is pending or were so earlier. It has been clearly admitted on behalf of complainant that a case was filed in the District Legal Services Authority Janjgir for taking her case in the Lok Adalat for redressal of her claim of Rs. 6 lacs on the basis of disability which also gets support from the documents filed on behalf of complainant during course of hearing. Since a Lok Adalat is also a court which is constituted under Legal Services Authority Act for deciding the cases either pre-litigation or post litigation and after filing of the said case by the complainant insured, the court of

Lok Adalat bench no. 1 dismissed the same due to absence of both the parties and matter was disposed off but since the complainant has not mentioned the above fact in Column No. 7 in P-II form only to seek redressal by this form and mentioning the word "Nahi hai" which is apparently concealment of vital fact for deciding the maintainability of the case in this forum. The complainant insured has also not filed the complete copy of the above said writ petition 1057/2013 to appreciate the facts about the factum of the claim and relief prayed before the Hon'ble Court. Under the aforesaid circumstances, I am constrained to observe that the above fact of filing of the case on the same subject matter and disposal by the court of Lok Adalat constituted under Legal Services Authority Act has been concealed only to get the case disposed off by this forum but since from the perusal of the P-II form and complaint, it is clear that the complainant has only made her signature but has been filed by her representative, so the complainant insured as well as her representative are warned to be careful in disclosing the true facts and should come with clean hands for redressal of her grievance either before this forum or any other court competent to decide her grievance.

On perusal of the above referred ruling on behalf of the Respondent Insurance Company, I found that the Hon'ble National Commission have clearly observed that accident benefit to become payable to the complainant only in case of suffering a permanent disability (100%) and clearly he suffered partial disability to the extent 81% accordingly the revision petition was dismissed.

Placing reliance on the case of Devanti Devi Vs. National Insurance Company Ltd. & others reported in CPJ 2011 Volume 4 Page 684 (national Commission), the complainant insured cannot be entitled to get the insurance amount as the Hon'ble National Commission have clearly held in the above case that benefit of 100% of sum assured is available in case of "permanent total disablement"only and disability certificate issued by Medical Board has mentioned 50% disability, the complainant was not entitled to get insurance amount in case of accident causing injury in spinal cord causing paralysis of her upper and lower limbs. Since, the parties are governed by the terms of the contract of the policy document and accident benefit would only be available in case the disability comes

strictly under the definition provided in the policy. The Medical Board has found the disability of moderate category i.e. 50% hence, by no stretch of imagination it could be said to be permanent total disablement in terms of the policy document so, the disablement suffered by the complainant insured did not come within the scope of cover provided under the policy. This forum is not competent to dilute the terms and conditions of the policy document and contract arrived between both the parties to give any benefit to the aggrieved complainant insured.

Hence, under the aforesaid facts, circumstances, material placed on record and contentions made by both the parties, I am of the considered view that this case is not maintainable and devoid of any merits and the decision of the insurer the Respondent Insurance Company to reject the claim made on the basis of 50% disability caused due to an accident invoking the terms and conditions of the policy document is in order and does not require any interference by this authority. Being devoid of merits, this complaint stands dismissed.

Both the parties shall bear their own cost of proceeding in this forum.

Let a copy of this order be sent to the Complainant and Respondent.

Dated at BHOPAL on 11th day of September, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN, BHOPAL

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Before the Insurance Ombudsman for M.P & Chhattisgarh

In the matter of

Mr. Kashi Prasad Sharma……Complainant

V/S

Bharti AXA Life Insurance Co. Ltd……Respondent

Order No. IO/BHP/A/LI/0060/2013-14 Case No. BXA-157-20/09-10/MUM

Under the Redressal of Public Grievances Rules, 1998

Brief Background:

This case has been filed by the complainant Mr. Kashi Prasad Sharma being policyholder of policy bearing no. 500-4634340 for sum assured Rs. 3 lacs for the life insured Divya Sharma for a term of 75 yrs under Basic plan Merit Plus praying therein to direct the Respondent Bharti AXA Life Insurance Co. Ltd. for cancellation of policy and refund of premium amount of Rs. 30000/- with interest w.e.f. 30.11.2009 to the complainant.

As per complaint, a policy bearing no. 500-4634340 was issued to the complainant and the insured Divya Sharma by the respondent Bharti AXA Life Insurance Co. Ltd on 21.12.2009. On the basis of his proposal given on 30.12.2009 on payment of premium amount Rs. 30000/- through cheque no. 425129 dt. 30.11.2009 for the basic plan Merit Plus for the insured Divya Sharma the grand daughter and the policy bond was received on 26.12.2009. It is further said that after receiving the same, the complainant sent the letter for free look cancellation of the policy on 02.01.2010 as he was not

satisfied with terms and conditions of the aforesaid policy and later on policy documents were received in the Branch Office Bhopal on 05.01.2010. It is further said that on 09.02.2010 the telephone call was received from Branch office of the respondent insurance company, Bhopal at about 8 PM and Mr. Sisodiya told him about his policy that amount of Rs. 30000/- our first premium had been increased upto Rs. 48000/- and advised him not to cancel the policy and he sent Mr. Amit Ninawe to get his application for continuing the policy and accordingly he obtained his signature on blank paper and wrote to continue the policy mentioning his acceptance as desired by him in the interest for his commission of the premium of Rs. 30000/- and on 10.02.2010, a letter was received from the respondent insurance company that the action of cancellation would be taken shortly and on 17.03.2010 a letter was received from the respondent insurance company by which respondent had informed that free look cancellation of policy was not requested by him timely i.e. within 15 days from date of receipt of policy bond, so the request could not be considered. It was stranged that on 10.02.2010 the company had written that the action would be taken shortly for free look cancellation of policy while on 15.03.2010, Mr. Sachin from Pune informed him on telephone that his policy has been cancelled and a cheque amounting Rs. 30834/- on dated 18.02.2010 had been prepared and would be delivered within 2-3days positively and in this way the company harassed him by giving a financial trouble and since the complainant was a retired person and aged about 65 yrs and was unable to continue the policy upto 21.12.2083 with Rs. 30000/- as last premium yearly and before issuance of the policy, the company had explained the better option and how could he continue the policy upto the year 2083 i.e. attaining the age of 140 yrs and the company did not return the policy bond till 21.07.2010 on his several request rather the bond was returned on 22.07.2010.

Being aggrieved with the action of the respondent, the complainant lodged a complaint on 28.07.2010 in this office seeking direction to the Respondent to cancel his above said policy and to refund his premium amount of Rs. 30000/- with interest. Accordingly, the complaint was registered in this office on 15.09.2010 and prescribed forms were issued to the complainant and letter was also issued to Respondent Insurance

Company for submitting Self Contained Note. Accordingly both the parties submitted the prescribed forms as well as Self-contained note respectively.

The Respondent Insurance Company has contended in its self-contained note that Mr. Kashi Prasad Sharma after understanding the policy terms and conditions had signed and submitted the proposal form for insurance on the life of Ms. Divya Sharma and accordingly has issued the said policy which was delivered on 26.12.2009 through Blue Dart Courier to the complainant. The respondent insurance company had also denied the allegation made by the complainant except the facts which has been specifically admitted. It has also been contended in self-contained note that on 05.01.2010, the company received a letter dt. 02.01.2010 from the complainant for cancellation of policy on account of not satisfied with the terms and conditions of the policy and since the company were verifying its records, wherein meanwhile the company received a letter dt. 09.02.2010 from the complainant stating that he was fully understood the policy terms and conditions and wish to continue with the policy and requested to ignore his free look request and continue the policy and accordingly a letter was sent by the company communicating the decision to withdraw the free look cancellation to the complainant. On 26.02.2010 the complainant again approached the company by letter dt. 24.02.2010 alleging misselling and cancellation of the policy. The company replied to the complainant on 17.03.2010 referring to his letter dt. 09.02.2010 in which the complainant had agreed to continue with the policy and again on 29.03.2010, 08.06.2010, the complaint approached the company alleging misselling and requesting for cancellation of policy and the company sent reply on 01.07.2010 declining the cancellation request as there was no misselling involved and the complainant had provided retention letter dt. 09.02.2010 and on 27.07.2010, the company received a complaint through IRDA alleging misselling and free look cancellation under aforesaid policy and the company sent its reply to IRDA. It has also been contended in self-contained note that the company have verified their records that the representations made at the time of solicitation were in the line of product features as per the policy bond and the policy was issued as per requirement and information disclosed by the complainant in the proposal form, illustration of benefits and other relevant document given by the complainant at the

proposal stage and complainant has been covered under the said policy for almost a year and therefore the policy cannot be cancelled as per the policy terms and conditions and prayed to dismiss the complaint.

For the sake of natural justice, hearing was held on 16.09.2013 at Bhopal & sincere efforts were made during mediation to resolve the subject matter of complaint i.e. the claim of refund of premium of Rs. 30000/- + Interest to the complainant after cancelling the policy document but since the representative on behalf of respondent insurance company was not ready to settle the dispute through mediation in view of the prayer of the complainant to continue the policy after making prayer for cancellation under free look period, so the dispute between the parties could not be resolved on the basis of mutual agreement. The Complainant Mr. Kashi Prasad Sharma who presented himself as well as the representative Mr. Shekhar Shrivastava on behalf of the respondent insurance company were heard.

The complainant during course of hearing has reiterated the versions made in the complaint and laid emphasis that since he was not satisfied with the terms and conditions of the policy, so he opted for free look cancellation of the policy and sent the letter on 02.01.2010 along with the policy bond which were received in Branch office, Bhopal on 05.01.2010 and the insurance company did not act on his request for cancellation and waited for more than a month regarding cancellation of his policy and on his misrepresentation about the policy benefit, Mr. Amit Ninawe got his signature on a blank paper on false assertion that his first premium has been increased upto Rs. 48000/- and gave advice not to cancel the policy and mentioned his acceptance for undue advantage and his earlier request of free look cancellation and also subsequent request for cancellation of policy on the ground of misselling was not considered by the respondent company before 15.03.2010 and only on 15.03.2010, he was informed on telephone that his policy has been cancelled and a cheque for Rs. 30834.10/- has been prepared and delivered shortly but the company did not return the policy till 21.07.2010 rather it was returned on 22.07.2010 and prayed to direct the respondent to refund the premium amount after cancellation of policy.

On the other hand the representative on behalf of respondent company refuted the contentions made by the complainant and laid emphasis that since the complainant made the request in writing to continue his policy ignoring his earlier free look request vide his letter dt. 09.02.2010 and the complainant had also exercised the benefits and availed the services and was covered for almost a year, so he was not entitled for cancellation of his policy on the basis of his free look cancellation of his policy and apart from it, a cheque of Rs. 6038/- bearing no. 129350 dt. 28.12.2012 has been issued as surrender value to the complainant for which he is only entitled in view of the terms and conditions of the policy.

OBSERVATIONS:-

I have gone through the material placed on the record and contentions made on behalf of both the parties during hearing. My observations are summarized as under:-

It is an admitted fact that the policy bearing no. 500-4634340 was issued to the complainant on the basis of the proposal form duly signed and submitted by the complainant under the plan Merit Plus after deposit of first premium amount Rs. 30000/- by cheque and which was issued on 21.12.2009 by the said insurance company and was delivered on 26.12.2009 to the complainant which was sent by Blue Dart Courier but there is an allegation of misselling which though has been denied by the respondent insurance company on the ground that as per the requirement and information disclosed by the complainant in the proposal form and understanding the product features, the policy was issued. It is also an admitted fact that the complainant sent a letter dt. 02.01.2010 to the insurance company which was received on 05.01.2010 in the Branch office along with the policy document in which the complainant had clearly started that he was not satisfied with the terms and conditions and made his request to cancel his policy and refund his amount as early as possible which is apparent from the letter dt. 02.01.2010 (xerox copy) received on 05.01.2010 itself. It has been contended in the self-contained note that the company was verifying its record after receipt of the said letter on 05.01.2010 regarding cancellation of the policy under free look period. Section 2, sub section 2.9 under heading

free look option of the terms and conditions of the policy document clearly provides that if you disagree with any of the terms and conditions of the policy you have the option to return the original policy bond along with a letter stating reasons for the objection within 15 days of receipt of policy bond (the free look period). The policy will accordingly will cancel and an amount equal to the sum of (premium allocation charges, policy administration charges, risk benefit charges, deducted from the policy fund value) and the policy fund value less stamp duty and underwriting expenses incurred by the company) will be refunded to the policyholder. Thus from the above terms and conditions contained in the policy document, it is apparent that there is no provision to wait for passing a order regarding cancellation of policy or to compel the complainant to continue the policy if he was not satisfied with the same and the terms and conditions of the policy document also does not give option to the policyholder to continue his policy after sending a request letter and policy document for cancellation of his policy under free look period. It is established fact that the complainant had opted free look period and request was made for cancellation of his policy being not satisfied with the terms and conditions which was duly received in the respondent insurance company within period of 15 days from the date of receipt of policy. So, the respondent insurance company should have acted on his said request and should have cancelled the policy and should have refund the money after deducting the admissible expenses incurred by the company in issuing the policy but the respondent insurance company withholding the action on the said request made under free look period waited and only acted on the subsequent letter which was sent by the complainant after alleged misrepresentation and taking his a signature on a plain paper showing his acceptance about continuity of the policy which was neither proper nor sustainable under the terms and conditions of the policy document and the representative on behalf of the respondent company also failed to satisfy the reasons for not taking any action as early as possible on the request of cancellation made under free look period by the complainant. So, I do not find any substance in the contention of the representative of the respondent about withholding the cancellation and not refunding the premium amount in time and the action of refunding the surrender value of Rs. 6038/- only by issuing a cheque to the complainant without his request appears to be arbitrarily and without any base.

From perusal of the proposal form submitted by the complainant himself it is apparent that proposal form duly filled in has been signed by the complainant on 03.12.2009 and he has also affixed his photograph on the proposal form and it was clearly mentioned that the name of the plan was Merit Plus and death benefit and the sum assured as Rs. 3 lacs showing premium term 75 yrs and premium amount Rs. 30000/- which was paid by the complainant through cheque no. 425129 dt. 30.11.2009. It also appears from the perusal of the said proposal form (Xerox copy) that there is a declaration of complainant himself that he has received, read and fully understood the product brochure and benefit illustration of Bharti AXA Life Insurance Co. Ltd. and understand the question contained herein and submitting the completed proposal form on his own volition apart from other declaration. Since the complainant has signed in English below the declaration as printed, so he could not say that he could not read the above declaration which was to be given by him, so the allegation of any misselling as well as misrepresentation is not substantiated though the term 25 yrs has been mentioned which appears to be a long term and which might be the reason for not satisfaction of the complainant for invoking the free look option and since the complainant was fully competent to avail the free look option for cancellation of his policy within free look period, so his request made for cancellation of his policy under free look period was fully just, legal and proper under the terms and conditions of the policy and cannot be questioned by the respondent company and the respondent company was not authorized to withhold their decision for a period of more than a month after receipt of the letter dt. 02.01.2010 along with policy document containing prayer of cancellation and refund of premium amount. Thus from the above facts, it is established that the respondent insurance company has not acted in accordance with the terms and conditions of the policy document regarding cancellation of the policy and refund of the premium amount to the complainant.

Under the aforesaid facts, circumstances and contentions of both parties, I am of the considered view that the complainant is entitled to get the refund of first premium amount Rs. 30000/- paid by him. Hence, complaint is allowed to the extent of refund of

premium amount only and the respondent insurance company is directed to pay the first premium amount Rs. 30000/- after deducting the amount of cheque towards surrender value for Rs. 6038/- (Six Thousand Thirty Eight) Only if already paid to the complainant and also deducting other administrative expenses incurred by the respondent insurance company as per terms and conditions of the policy document within 15 days from date of receipt of acceptance letter from the complainant failing which it will attract a simple interest of 9% p.a. from the date of this order to the date of actual payment.

Both the parties shall bear their own cost of proceeding in this forum.

Let a copy of this order be sent to the Complainant and the Respondent Insurance Company.

Dated at BHOPAL on 18th day of September, 2013 (R.K. SRIVASTAVA)
INSURANCE OMBUDSMAN

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BHUBANESHWAR

Bhubaneswar Ombudsman Centre

Complaint No. 21-001-1576 Accident benefit Claim
Smt Kamini Pradhan Vs Life Insurance Corporation of India
Rourkela Branch .

Date of Award …… 16.04.2013

Fact: This is a complaint filed for repudiation of accident benefit claim in respect of her husband's policies of insurance by the Insurer.

It is stated by the Complainant that her husband Late Maheswar Pradhan during his life time had taken five Endowment Assurance With Profits (With Accident Benefit) policies of insurance bearing nos. 590010719, 590027277, 591025198, 591037321 and 591037747 under Table-Term 14-18, 14-16, 14-11, 14-13 and 14-10 for Sum Assured of Rs.25,000/-, Rs.25,000/-, Rs.15,000/-, Rs.40,000/- and Rs.10,000/- commencing from 28.03.1998, 28.03.1991, 28.03.1997, 28.09.1994 and 28.03.1999 with monthly (SSS)

premium of Rs.124.40, Rs.143.00, Rs.129.00, Rs.284.00 and Rs.95.00 respectively from the Opposite Party-Insurer. Her husband died on 31.10.2005 at the work site while on duty. On the claims that were made under the policies, the O.P. allowed only the basic sums assured with vested bonus and did not allow the accident benefit.

The O.P. stated that since the LA died of Cardio Respiratory Failure & Cerebral Infarction, it settled the claims allowing only the basic sums assured with vested bonus under all the policies. As the LA did not suffer his death due to any accident caused by outward, violent & visible means, the additional accident benefit was not paid.

Award:

It is needless to say that the accident benefit under a policy is payable if the injury or death results solely or directly from the accident caused by outward, violent and visible means. The medical paper such as the P.M. Report would show that the cause of death was shock due to cerebral hemorrhage. The copies of the police papers and the report of the Asst. Manager (P&A) of SAIL, Barsua Iron Mines, Tensa and the statement of the witness would show that the LA did not meet with any accident and that he died of cardio-respiratory failure. The statement of the witnesses would show that after parking the truck on the evening of 31.10.2005 while the LA was standing at a distance of about 10 ft. from the vehicle, he fell down suddenly losing his senses and he died thereafter. The letter of the Asst. Manager (P&A) of SAIL, Barsua Iron Mines, Tensa would show that the medical opinion about the cause of the death of the LA was cardio respiratory failure due to cerebral infarction. From the materials as are made available, it is apparent that the death of the LA was not caused by any accident and it resulted from the health problem in him. The claim being advanced by the Complainant, the primary burden lies on her to substantiate that in direct consequence of the accident, the LA had suffered his death. On the contrary, at the hearing, the Complainant admitted her inability to say the immediate cause of the death of the LA who was no other than her husband. Nor does she state either in the Complaint or in her oral submission made at the hearing that the death of her husband resulted from the accident. In the absence of the proof that the LA died an accidental death, the Complainant would not be entitled to the accident benefit. Hence, the complaint, being without merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 21-001-1579 Accident benefit Claim

Smt Sabita Mishra Vs Life Insurance Corporation of India Puri Branch .

Date of Award 24.04.2013

Fact:

This is a complaint filed for repudiation of death-claim raised upon her husband's policy of insurance by the Insurer.

The version of the complainant is that her husband Late Chandra Sekhar Mishra had taken the Money Back Plan with Profits policy of insurance under Table-Term 75-20 commencing from 28.07.2007 with quarterly premium of Rs.874/- for sum assured of Rs.50,000/ from the Opposite Party-Insurer vide policy no. 586865652. Her husband, the Life Assured died on 02.08.2010. As the nominee of her husband under the policy, she lodged the death-claim with the O.P. which repudiated her claim on the ground that at

the time of revival of the policy, her husband withheld material information regarding his health. The O.P. stated that the policy taken by deceased Chandra Sekhar Mishra which commenced from 28.07.2007 was revived on 07.07.2010 and that the Life Assured died soon thereafter i.e., on 02.08.2010 due to NIPU Cancer while being taken to CHC,Chandanpur. As per the prescription dated 28.02.2010 of Dr.Haribandhu Mishra, MD of Dist.Headquarters Hospital,Puri, the DLA was suffering from "Ext."Anaemia. The prescription dated 09.05.2010 of Dr. K.C.Baral, Puri, revealed that the DLA was suffering from Aplastic Anaemia. But the LA did not disclose these facts in the DGH filed by him for revival of the policy on 07.07.2010. For suppression of material fact regarding his health by the LA, it repudiated the claim.

Award:

The medical papers shows that on 28.02.2010 and also on 09.05.2010, the LA had received medical consultation as well as treatment from the doctors who prescribed medicines for the diseases suffered by him. The prescription of 28.02.2010 would show that the Doctor prescribed for three units of blood transfusion into the LA and advised for hemoglobin, stool, urine-routine and microscopic, ESR tests and also bone-marrow study. The prescription of Dr.K.C.Baral would show that he prescribed medicines for 30 days on 09.05.2010 and he also prescribed further medicines on 10.05.2010 and again on 20.05.2010 besides advising for his hospitalisation, blood transfusion and blood, stool and other tests. It is clear from the prescriptions that in the month of Feb'2010 and also in May'2010, the LA suffered from the disease which as described by the doctor was the disease of 'Aplastic Anaemia' and his treatment continued for more than a week inasmuch as medical consultations were taken on 09.05.2010, 10.05.2010 and 20.05.2010 which covers the duration of more than a week. But it would appear from the copy of the PSRH filed by the LA, that as against Q. No.2 which requires the LA to answer about his suffering and treatment when the same continues for or extends beyond a week or more and also about his undergoing blood/urine/stool tests, the reply given was clear 'No' stating thereby that the LA had no disease and that no treatment was taken by him between the date of proposal and the date of revival of the policy. It needs no authority to say that when material facts are suppressed by the insured, the other party to the contract i.e., the Insurer has every right to deny performance of its obligation under the policy. Hence, the complaint being without any merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 21-005-1584 Miscellaneous

Smt Sarojini Mishra Vs HDFC Standard Life Ins. Co. Ltd. Bhubaneswar Branch .

Date of Award 08.04.2013

Fact: This is a complaint filed for refund of her premium deposit with penal interest from the Insurer alleging harassment by the latter in the acceptance of ECS Mandate towards payment of renewal premium on her policy of insurance.

It is stated by the Complainant that she had taken the HDFC Unit Linked Pension II policy of insurance of 10 years term commencing from 26.03.2009 bearing policy no.12791460 on payment of premium of Rs.15,000/- by annual mode. With the Proposal filed by her for the policy, she submitted ECS Mandate Form signed by her husband for payment of subsequent premiums on her policy from her husband's S.B A/c maintained with HDFC Bank. At the time of acceptance of her Proposal, the ECS Mandate Form deposited by her got verified by the O.P. with the concerned branch of the Bank which certified the correctness of the authority given in the ECS Mandate. The Proposal was thereafter accepted by the O.P. which then sent the policy documents to her. But much after the expiry of the Free-look period and when payment of next premium was overdue, it rejected the ECS Mandate Form resulting in non-payment of subsequent premium on her policy. Feeling aggrieved by the careless approach of the O.P. towards her causing thereby harassment to a senior citizen who she is, she has asked for the relief of refund of her premium deposit along with interest from the O.P.

The O.P. stated that due to mismatch of signature in the Direct Debit Mandate submitted by policy-holder at the time of taking the policy and consequent rejection of the same by the Complainant's Banker, payment towards the next renewal premium was not received. Due to non-receipt of renewal premium, the policy lapsed. The policyholder was apprised of the position and was asked to submit a fresh mandate form. But the policy-holder responded by replying that in the event the premium payment would not be effected with the earlier mandate submitted by her, the policy be cancelled and premium refunded. It is stated by the O.P. that the request for cancellation of the policy and refund of premium could not be acceded to as the same was received after the free-look period.

Award:

The date which the letter bears would reflect that before the due date of the next premium, the complainant had become aware of dishonour of the Direct Debit Mandate by the Bank and also about the fact of non-debit of the renewal premium amount from the S.B A/c of Mr. Manoranjan Mishra through ECS Mandate. It is needless to point out that both the institutions are different organizations. As shown, it was the Bank which did not allow the debit of the amount from the SB A/c of the husband of the policy-holder on the ground of mismatch of signature. The very fact that the Complainant in her letter dated 23.03.2010 had asked the O.P. to utilize her earlier ECS Mandate would indicate that the debit was not allowed by the Bank on the basis of the Mandate submitted by her. Payment of premium on the policy is the primary responsibility of the insured. Before the due date it was within the knowledge of the Insured that the debit was not given by the Bank. But, instead of sorting out the matter by making direct deposit of the premium when it became due or signing a fresh mandate, the Complainant approached for refund of her deposit. For the action of the Bank in not allowing debit from the particular SB A/c, the OP which is a different organization and had no role to play in allowing or refusing debit from the A/c, cannot be liable for the reason that both are independent organizations with one having no control over the functional activities of the other. In the circumstances, question of O.P. acting carelessly in securing the premium amount through

Direct Debit Mandate and thereby causing harassment to the Complainant would not arise at all. The Complainant has sought for refund of her deposit beyond the free-look period. The policy does not envisage refund of premium deposit otherwise than under Free-look clause. Since the application is not one made under the Free-look clause, refund of the premium deposit as sought for cannot be allowed to the Complainant. Complainant's entitlement to refund of deposit being not made out, question of payment of penal interest to her on the amount deposited as premium would not arise. Hence the complaint, being without merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 21-005-1585 Miscellaneous
Sri Manoranjan Mishra Vs HDFC Standard Life Ins. Co. Ltd.
Bhubaneswar Branch .
Date of Award 09.04.2013

Fact:

This is a complaint filed for refund of her premium deposit with penal interest from the Insurer alleging harassment by the latter in the acceptance of ECS Mandate towards payment of renewal premium on his policy of insurance.

It is stated by the Complainant that he had taken the HDFC Unit Linked Pension II policy of insurance of 10 years term commencing from 27.03.2009 bearing policy no.12797286 on payment of premium at the rate of Rs.15,000/- by annual mode. With the Proposal filed by him for the policy, he submitted ECS Mandate Form signed by him for payment of subsequent premiums on his policy from his S.B A/c maintained with HDFC Bank. At the time of acceptance of his Proposal, the ECS Mandate Form deposited by him got verified by the O.P. with the concerned Branch of the Bank which certified the correctness of the authority given in the ECS Mandate. The Proposal was thereafter accepted by the O.P. which then sent the policy documents to him. But much after the expiry of the Free-look period and when payment of next premium was overdue, it rejected the ECS Mandate Form resulting in non-payment of subsequent premium on his policy. Feeling aggrieved by the careless approach of the O.P. towards his matter causing thereby harassment to a senior citizen who he is, he has asked for the relief of refund of his premium deposit with penal interest from the O.P.

The O.P. stated that due to mismatch of signature in the Direct Debit Mandate submitted by policy-holder at the time of taking the policy and consequent rejection of the same by the Complainant's Banker, payment towards the next renewal premium was not received. Due to non-receipt of renewal premium, the policy lapsed. The policyholder was apprised of the position and was asked to submit a fresh mandate form. But the policy-holder responded by replying that in the event the premium payment would not be effected with the earlier mandate submitted by him, the policy be cancelled and the total premium amount be refunded to him. It is stated by the O.P. that the request for refund of premium could not be acceded to as the same was received after the free-look period.

Award: The date which the letter bears would reflect that before the due date of the next premium, the complainant had become aware of dishonour of the Direct Debit Mandate by the Bank and also about the fact of non-debit of the renewal premium amount from the S.B A/c of Mr. Manoranjan Mishra through ECS Mandate. It is needless to point out that both the institutions are different organizations. As shown, it was the Bank which did not allow the debit of the amount from the SB A/c of the husband of the policy-holder on the ground of mismatch of signature. The very fact that the Complainant in her letter dated 23.03.2010 had asked the O.P. to utilize her earlier ECS Mandate would indicate that the debit was not allowed by the Bank on the basis of the Mandate submitted by him. Payment of premium on the policy is the primary responsibility of the insured. Before the due date it was within the knowledge of the Insured that the debit was not given by the Bank. But, instead of sorting out the matter by making direct deposit of the premium when it became due or signing a fresh mandate, the Complainant approached for refund of his deposit. For the action of the Bank in not allowing debit from the particular SB A/c, the OP which is a different organization and had no role to play in allowing or refusing debit from the A/c, cannot be liable for the reason that both are independent organizations with one having no control over the functional activities of the other. In the circumstances, question of O.P. acting carelessly in securing the premium amount through Direct Debit Mandate and thereby causing harassment to the Complainant would not arise at all. The Complainant has sought for refund of her deposit beyond the free-look period. The policy does not envisage refund of premium deposit otherwise than under Free-look clause. Since the application is not one made under the Free-look clause, refund of the premium deposit as sought for cannot be allowed to the Complainant. Complainant's entitlement to refund of deposit being not made out, question of payment of penal interest to her on the amount deposited as premium would not arise. Hence the complaint, being without merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 24-008-1597 Miscellaneous

Sri Ramesh Chandra Sahoo Vs Kotak Mahindra OM Life Insurance Co. Ltd .

Date of Award 29.05.2013

Fact:

In this complaint, alleging mis-sale of insurance policies to him by the functionaries of Opposite Party-Insurer the complainant has sought for the reliefs of either return of his premium deposits or for conversion of his policies into a single deposit policy of 5-year term.It is stated by the complainant that being approached by the Sales Executive of Kotak Mahindra Life Insurance Company , Cuttack Branch who explained to him that his one-time single deposit of Rs.1,00,000/- under company's insurance plan of 5-year term would earn for him Rs 2,00,000/- at the end of the term with extended life cover up to the year 2031 if policy to taken would commence from 2011. Believing the

words he made over a sum of Rs 1, 00,000/- for the proposed policy and signed the proposal form. The Sales Executive also took the signature of his wife saying that same was necessary for nomination purposes. When he received policy documents, he did not bother to look into the policy papers as he was busy in his catering business and as the policy documents were written in English language in which he can manage to put his signature and can read bold news headlines only. When the position stood thus , he got two SMS in his registered mobile telephone from the insurer to pay renewal premium of Rs 50,683/- due on 28th January,2012 in respect of policy No.02224779 .He looked into the policy documents and found that two numbers of endowment policies both of 20-year term commencing from 28.01.2011- one bearing No.02224785 issued in the name of his wife Mamata Sahoo with annual mode of payment of premium of Rs. 50,708/- and another policy bearing No.02224779 issued in his (Ramesh Chandra Sahoo's)name with annual mode of payment of premium of Rs 50,683/ were sent to him. .Feeling cheated by the company which had instead of issuing one single premium policy had issued to him two regular policies of 20 year terms , a period long enough for him to make the deposit and for his wife who is a house wife having no independent income ,to pay . He then sent his complaint to Customer Care of Kotak Life Insurance Co. Ltd. on 15.02.2012 and also to Grievance Redressal officer of the OP on 22.05.2012 asking either to return the deposited premium or to convert the policies into a single deposit policy for 5 years term. As he did not receive any response, he has filed the complaint seeking reliefs as aforementioned. The OP stated that as per the particulars furnished in the proposal form and benefit illustration dated 28.01.2011 executed by the proposer/life assured ,Kotak Endowment Plan policy of insurance of 20 year term bearing No.02224779 was issued in the name of Sri Ramesh Chandra Sahoo mentioning date of commencement of the policy as 28.01.2011 for a basic sum assured of Rs 9,00,000/- with annual mode of deposit of premium @ Rs50,000/-.After thoroughly understanding the features, terms and conditions of the plan, the Proposer also purchased another policy i.e. Kotak Endowment Plan policy of insurance of 20 year term submitting a duly filled in and signed proposal form and executing the benefit illustration dated 28.01.2011 relating to policy No.02224785 in the name of his wife - Mrs. Mamata Sahoo with date of commencement of the policy from 28.01.2011 for a basic sum assured of Rs 10,08,259/- with annual mode of payment of premium @ Rs 49,999/-.It is further stated by the OP that in respect of policy No.02224779 & policy no.02224785. the policy-holders approached the company for the first time on 30.05.2012 & 22.02.2012 respectively alleging mis-sale after a period of more than a year to which the company had replied on 08.06.2012 & 27.02.2012 respectively regretting its inability to consider the request for cancellation of the said policies as the free-look cancellation option was not exercised by him within 15 days of receipt of the policies.

Award:

It would appear from the Proposal Application No KP 1972090 appertaining to Policy No 02224785 relates to Mamata Sahoo and the Proposal Application No KP 1972091 appertaining to Policy No 02224779 relates to the complainant- Ramesh Chandra Sahoo show that both of them asked for regular premium policy under OP's Endowment plan of 20- year term with policies commencing from 28.01.2011.The complainant does not raise any dispute as to the genuineness of the copies of the

proposal forms as are filed by the OP. Though the complainant has raised the contention of the mis-sale pleading that he wanted a single premium policy with Rs.1 lakh premium, no material is brought on record on behalf of the complainant save and except his oral submission to substantiate his plea and to counter the recorded materials in the above documents concerning which reference has already been made. It would bear repetition that the copy of the Policy Schedules and the First Premium Certificates in respect of both the policies filed by the complainant would show that both the complainant and his wife took the OP's endowment plan of 20 years term w.e.f. 28.01.2011 with annual mode of payment of premium. The proposal form would show that educationally, the complainant had passed 12th standard and his profession was catering. It would therefore be difficult to accept the contention that he (complainant) was not able to read the term of the policy and the mode of payment of premium. On the above material the inescapable conclusion would be that both the complainant and his wife opted for regular premium policies of 20-year term which were accordingly issued to them. The plea of the complainant that he was cheated is thus not substantiated.

The complainant has sought for refund of his premium deposit and alternatively for conversion of both the policies into a single premium policy of 5 year term. It is not the case of the complainant that his application for above changes was made to the OP within the free-look period of the policy which condition No 8 of the policy terms and conditions incorporates. The premium being paid for only one year, the surrender clause of the policy would not be attracted. There is no other condition in the policy under which such request as is made by the complainant can be accommodated. The plea of cheating being not established, the complainant would not be entitled to the relief as sought for by him in the complaint. Hence the complaint being devoid of merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 24-009-1638 Miscellaneous

Sri Chaitanya Kumar Sahoo Vs Bajaj allianz Life Insurance Co. Ltd .

Date of Award 28.05.2013

Fact:

This is a complaint filed for non-payment of surrender value by the Insurer on the policy assigned absolutely in favour of his (complainant's) deceased daughter.

The say of the complainant is that the policy of insurance of the OP bearing No.0015104745 taken by one Dr.Anuradha Panigrahi was absolutely assigned in favour of his daughter late Seema Sahoo who died on 16.04.2012 .Being the legal heir of the deceased , he filed the claim on 10.05.2012 with the Insurer submitting legal heirs Certificate of late Seema Sahoo from the Additional Tahasildar, Bhubaneswar reflecting his name and the name of his wife-Satyabhama Sahoo, the father and the mother of the deceased Seema Sahoo respectively as latter's legal heirs. He submitted the copy of the said legal heir Certificate with the 'No objection'

Certificate of the other legal heir, namely Satyabhama Sahoo,. Instead of settling his claim, the OP asked him to submit Succession Certificate obtaining it from the court of competent civil jurisdiction. Feeling aggrieved by OP's demand for Succession Certificate, he has filed the complaint requesting for appropriate action for settlement of his claim.

The OP stated Mr. Chaitanya Kumar Sahoo, the father of late Seema Sahoo, applied for surrender of the policy on 10.05.2012. He filed the copy of the legal heir certificate of Late Seema Sahoo issued by the Tahasildar along with the ' No-objection certificate' of Mrs. Satyabhama Sahoo,(mother of the deceased Seema Sahoo), the other legal heir for payment of surrender value to the Applicant- Mr. Chaitanya Kumar Sahoo. It is stated by the OP that in the absence of the Succession Certificate granted by the court of competent civil jurisdiction, the legal heir ship of father cannot be concluded. But the complainant did not file the same

Award: In this connection Section 39 (5) of the Insurance Act,1938 may also be referred to. This sub-section deals with payment of the amount secured under a policy of insurance. It provides that if policy matures for payment during the life time of a person insured or where nominee or nominees die before the policy matures for payment, the amount secured under the policy shall be payable to the policy holder or his heirs or legal representatives or holder of a Succession Certificate, as the case may be. Thus ,as per the provision of law ,if the policy-holder survives beyond the date of maturity, he or she, as the case may be, is to get the insurance payment and the policy-holder or the nominee is dead before maturity ,such payment is to be made to the heirs, or legal representatives or holder of the Succession certificate. The object of the provision is to see that the Insurer gets a proper discharge. Obviously, it is for the insurer to determine the option. In Lalsa Vs District IVth Upper District Judge, Basti reported in AIR 1999 Allahabad 342 his Lordship observed that the amount of provident fund as well as insurance money are to be paid to the legal heir of the deceased employee on production of a Succession Certificate as has been contemplated under the statutory provision. In view of the provision of law under the Insurance Act as referred to the above and the decision in Lalsa's case(supra) asking for submission of the Succession Certificate by the Complainant who in the capacity of one of the heirs of the deceased assignee seeking payment of the insurance money by the OP-insurer cannot be concluded to be unjustified or inappropriate. Hence, the complaint is allowed in terms of the observation made above . On submission of Succession Certificate granted by the Court of Competent Civil Jurisdiction for getting payment of insurance dues by the complainant, the OP would effect payment of the surrender value as due under the policy in time in accordance with the policy terms and conditions.

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<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 21-005-1623 Miscellaneous

Sri Iswar Chandra Tripathy Vs HDFC Life Insurance Co. Ltd.

Date of Award …… 04.06.2013

Fact: This complaint is filed by the complainant seeking cancellation of his insurance policy and refund of deposited premium with interest on the allegation of mis-sale of

policy by the Insure to him. It is stated by the Complainant that on 01.05.2012 a person who identified himself as Mr.Vikram Rajput serving in Login Department of IRDA, Mumbai conveyed him that if he would take a policy from the OP i.e., HDFC life Insurance Co. Ltd. through him with one-time deposit of Rs 25,000/- , he would get Rs. 45,000/- on 27.09.2012.. Following the talk, a local person one Sanjay by name who was unknown to him and was himself ignorant about the policy terms & conditions came to him with the proposal form which he signed in good faith .He paid Rs 25,000/- for the policy. He was informed that the policy amount with bonus would come to around Rs.70,000/- . He received the policy bond but could not go through the same as he had to go out of station for the treatment of his nephew. On 16.07.2012 Mr. Rajput again contacted him and told him to deposit further sum of Rs. 31,000/- as security against another policy on which he would get Rs 1, 00,000/- on 27.09.2012.Entertaining doubt, he verified the policy which he had received from the OP and found to his surprise that he had been issued with a regular premium policy of 7-year term requiring payment of premium of Rs.25, 000/- for the period by annual mode. Being a retired person it was not possible for him to pay the premium amount for 7 years. It is stated by the complainant that the age limit for the policy was 18 to 50 years whereas his age then was 58+. .Feeling cheated with false assurance he wrote to the OP to cancel his policy & to refund the invested amount.

The OP stated that after receipt of the duly filled-in Proposal Forms dated 07.05.2012 along with Quotation, illustrations, Photocopy of Pan Card, KYC Addendum etc. from the complainant, HDFC Standard Life Classic Assurance Policy of insurance of 10 year term with premium paying term for 7 years commencing from 07.05.2012 with annual mode of deposit of premium @ Rs25, 000/-,.bearing Policy No.15151741 was issued to Sri Iswar Chandra Tripathy. The policy documents were sent to him through Sri Chakra Transect Courier on 19.05.2012 and was delivered. With the policy documents, a letter containing "Option to Return" clause indicating therein that in the event of disagreement with any of the conditions of the policy, the policy-holder had the option within 30 days from the date of receipt of policy documents to seek for cancellation of the policy and claim refund of the premium. But for the first time on 27.07.2012 alleging mis-sale, the complainant requested for cancellation of the policy and the same was rejected as the request was received beyond free look period.

Award:

A look at the Free-look clause of the policy would reflect that if the policy-holder finds any of the provisions of the policy not acceptable , he or she has the option to return the policy stating the reason thereof within 30 days of receipt of the policy where upon the company shall refund the premium subject to deductions as provided under the policy. It is not the case of the complainant that he sent his application for cancellation of his policy within the free- look period of 30 days from the date of receipt of the policy documents by him .It is not specifically mentioned by the complainant when he received the policy documents. The complaint petition would show that he moved into action when on 16.07.2012. Mr. Rajput contacted him for deposit of Rs 31,000/- as security for another policy which as he was told Though he does not say the exact date of receipt of policy by him, yet he does not refute OP's contention that the policy documents were received by him on 19.05.2012 which fact was also repeated by OP's representative at the hearing. It is stated by the complainant that on 19.07.2012 he had sent an e-mail seeking cancellation of the policy and refund of his deposit and such application of the

complainant was received on 27.07.2012. It has been found that the policy documents were received by the complainant on 19.05.2012. The free look period of 30 days expires on 17.06.2012. Even accepting that the application for cancellation by the Complainant was sent on 19.07.2012, it would be evident that almost two months after the date of receipt of the policy documents by the complainant,the application for cancellation and refund of deposit was made by the Complainant. Such being the position, it is clear that the application for cancellation and refund of the deposit was made after the expiry of the free-look period. As already noticed, policy terms and conditions do not contain any other provision where under a policy-holder can seek for cancellation of policy and refund of the deposit. The policy having commenced from 05.07.2012, the same has not matured for surrender benefit also. In these circumstances, the complainant is not entitled to the reliefs as prayed for by him in the complaint. Hence the complaint being without merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 21-019-1651 Miscellaneous

Sri Sailendra Kumar Nayak Vs Aegon Religare Life Insurance Co. Ltd .

Date of Award 08.07.2013

Fact: Non-cancellation of his policies sought within the free-look period with refund of his deposits by the Insurer. The contentions of the Complainant as would be gathered from the Complaint and other accompanying documents are that being given the impression by advisor of the OP's Bhubaneswar Branch that his deposit with the OP would be doubled in 5 years, he gave two number of cheques for one Rs. 3, 00,000/- and another Rs. 2, 00,000/-in favour of the OP for having a single-premium policy. When after lapse of long period he did not get his policy bond, he contacted the Branch Office of the OP at Cuttack and as advised in the Office, he applied in writing on 10.10.2011 to provide the policy bond to him. Thereupon, on 29.10.2011 two policy bonds bearing nos.100912263529 & 101112744057 were delivered to him by hand at the Cuttack Branch of the OP which he received by putting his dated signature in the Branch Office Register in acknowledgment of having received the bonds on 29.10.2011. On going through the bonds he noticed that bonds were duplicate policies under OP's Money Back Plus plan of 16 years term with premium paying term of 10 years. It is further stated by the Complainant that prior to 29.10.2011 he had not received any bond but the Insurer issued him two policy bonds describing those as 'Duplicate' . Because of the above situation he wrote to the Head Office of the OP on 02.11.2011 seeking cancellation of two above policies issued to him with refund of his deposit. As his effort did not yield any result, he filed this complaint requesting for the relief of cancellation of the two policies which he had sought for within the free-look period and refund his deposits with interest.

The OP stated that as per the Proposal Forms dated 23.09.2010 and 30.11.2010 and the Benefit Illustrations papers submitted by the Complainant Sri Sailendra Kumar Nayak ,

two numbers of Aegon Religare Money Back Plus policies-one bearing No. 100912263529 of 16 years term with premium paying term of 10 years commencing from 13.11.2010 with annual mode of deposit of premium @ Rs 3,06,619/- and other one bearing no.101112744057 commencing from 20.12.2010 with annual mode of payment of premium @ Rs 2,01,020/ were issued to the complainant to whom the policy bonds were delivered by hand delivery process on 26.12.2010 &26.01.2011 respectively. The first letter of the Complainant for cancellation of the policies under Free-look clause of the policies which allows 15 days time from the date of receipt of policy as per clause 2.5 of policy terms &conditions, was received by it after a gap of more than a year i.e., on 12.01.2012. As request was made by the complainant, beyond the Free-look period, the policies were not cancelled and the requests rightly rejected.

Award

The version of the complainant is that he received the policies by hand delivery on 29.10.2011 and on 02.11.2011 he filed his applications for cancellation of the policies & refund of money under free-look clause. The contention of the OP in reply is that the policy bond of policy No. 100912263529 was handed over to the Complainant on 26.10.2010 and the policy bond of the policy No. 101112744057 was made over to the policy holder by hand on 26.01.2011 . Fact of delivery of policy documents on the dates as claimed by the OP being challenged by the Complainant ,the burden squarely lies on the OP to substantiate its contention that delivery of the policy bonds was made to the Complainant on the above mentioned dates .The OP has filed the photo-copies of the Acknowledgement slips marking these as Annexure-V to support its version . The Acknowledgement slip filed in respect of policy No.100912263529 would reflect that the policy document was received by the Complainant on 17.12.2010.But in the reply filed by the OP ,the date of delivery of the policy bond has been mentioned as 26.12.2010. It would be worth mentioning that the reply of the OP in paragraph no.2 would reflect that the particulars which are furnished on the basis of its records relate to policy No 111213368218 and No 111213368229 .But in the box drawn of below this sub-paragraph policy Nos quoted are with regard to two different policy Nos. Further, in the OP's letter dated 11.09.2012 addressed to the complainant, a photo copy of which is filed by the Complainant it is mentioned by the OP that as per their records, the policy document of policy No 101112744057 was handed over to the complainant on 24.01.2011 and the policy document in respect policy No 100912263529 was handed over to the complainant on 17.12.2010. Thus, three different versions with regard to the date of delivery of policy documents to the complainant emerge from the own documents of the OP. It would bear repetition that in the reply filed to the complaint, it is stated the OP that the policy document of policy No 100912263529 was handed over by hand to the Complainant on 26.12.2010 and the policy document of policy no 101112744057 was handed over to him on 26.01.2011. The Acknowledgement slip filed by the OP would show that the policy document of policy No 100912263529 was received by the Complainant on 17.12.2010. In the letter dated 11.09.2012 relating to which reference has already been made, it is stated that the policy document of policy No 101112744057 was handed over to the complainant on 24.01.2011.On such inconsistent versions of the OP, it is difficult to give any credence to the contention of the OP with regard to delivery of policy documents to the complainant.

The version of the OP having been found not acceptable with regard to delivery of policy documents, the complainant's version that on 29.10.2010 he received the policy bonds for the first time shall have to be accepted. It has been found that on 02.11.2011 the complaint returned the policies with letter of request for free-look cancellation of the policies . The money receipt of the Postal Department of Govt. of India corroborates the fact of dispatch of the letter by the complainant on same date i.e. on 02.11.2011. Thus, clearly within the period of 15 days from the date of receipt of policy documents by the Complainant, he had applied for cancellation of the policies with request to refund his money. Hence the complaint is allowed. The OP is directed to treat the applications of the complainant as applications made under free look option clause of the policies and to refund the amount with penal interest from 02.11.2011 till payment at the rate applicable making policy-related deductions of the amounts as provided for under the Free-Look Option clause of the Policies.

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Bhubaneswar Ombudsman Centre

Complaint No. 21-001-1654 Miscellaneous

Sri P.Upendra Gupta Vs LIC of India, Berhampur DO .

Date of Award …… 11.07.2013

Fact: This is Complaint filed for refusal of Disability Benefits to him under his policies of insurance by Insurer.

The Complainant had taken 3 nos. LIC policies of insurance under (1) Jeevan Suraksha (Endowment Funding), (2)New Money Back with Profit(with Accident Benefit) & (3) Bima Sandesh policy with accident benefit plans commencing from28.03.2000,28.03.1991,&28.03.1991 respectively vide policies Nos. 582129324, 580547209 and 580547582 respectively .During the operative period of all his policies while he was travelling on 09.04. 2000 by bus he met with an accident in which he was seriously wounded. Because of the accident which had caused much damage to his brain, the entire right side of his body, including his right leg, right hand & portion of his mouth towards right side became paralytic. The condition he suffered in consequence of the accident created total physical disability in him. Subsequent to his discharge from the hospital, he lodged disability claims under his policies with the OP which rejected the same on the reason that the accidental disability suffered being not total with him, no disability benefit under the policies are payable.

The OP stated that the Complainant was an employee of U Co Bank, Phulbani when he met with the accident. He applied for disability benefit under the policies on 18.12.2000 submitting all the treatment papers showing his treatment by Dr. Sanatan Rath of Cuttack during the period from 09.04.2000 to 08.03.2007. Under the policy no. 582129324, no cover for DAB was available The complainant submitted the photocopy of the Medical report of Dr. (Prof.) Sanatan Rath dated 14.01.2004 wherein the percentage of his disability was stated 50%. On 02.05.2007 the Complainant obtained the Disability Certificate from District Medical Board (Disability),Ganjam which certified the percentage of disability as 50%. It is stated by the OP that as per the policy conditions, the disability resulting from the accident to be payable must be total and permanent and that there is neither then nor at any time thereafter, the LA can ever sufficiently do any work or follow the occupation or profession

to earn or obtain any wages, compensation or profit .In the accident the Complainant –LA has neither lost his eye sight nor was his limbs amputed. After the accident he continued in his service in the Bank and worked in 3 different places like Phulbani, Berhampur and Bhubaneswar up to 31.03.2007 when his services were terminated by way of disciplinary punishment. It is also stated by the OP that the disability to the extent of 50% in the Complainant occurred 180 days after occurrence of the accident. The claims were examined and found the disability benefit claim is not payable to the complainant.

Award:

As envisaged under policy condition, entitlement of the life assured to disability benefit would arise when the following criteria would be satisfied:

(i) The disability in the Life Assured must result from the accident

(ii) Such disability is total and permanent

(iii) For the Disability caused the life assured is not able to perform any work, occupation or profession at that time or subsequently to sufficiently do or follow to earn wages, compensation or profit.

The relevant Disability Certificate issued in favour of the Complainant by the District Medical board (Ganjam), a copy of which has been filed by the OP would show that the extent of disability suffered by the complainant is 50 %. The complainant does not dispute the correctness of the extent of Disability as was assessed in him by the competent medical Board. But no material is forthcoming from the side of the Complainant to show if after completion of three years any reassessment of his disability was ever made. The available Disability Certificate thus clearly indicates that the disability in the complainant was not total. Further, in the absence of re-assessment report it would be difficult to conclude that the nature of disability as reflected in the Certificate is of permanent type. The extent of disability suffered by the complainant did not create any impediment in his earnings as the complainant was continuing in same cadre/post after accident as was before. In such circumstances, denial of the disability claim as has been made by the OP does not call for any interference. Hence complaint being devoid of merit is hereby dismissed.

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<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 21-001-1663 Miscellaneous

Sri Choubarga Naik Vs LIC of India, Sambalpur DO.

Date of Award 17.07.2013

Fact: This is a complaint filed against the Insurer for non-cancellation of his policy of insurance under 'Cooling-off' clause of the policy and consequent non-refund of the amount deposited by him towards premium for the policy by the OP.

It is stated by the Complainant that desiring to take a single-premium deposit policy of Insurance from the OP, and filing the proposal therefor, he paid Rs.90,000/- towards one-time premium for the policy which was not provided to him in time. Since as per Regulation 4(6) of IRDA (Protection of Policy-holders' Interest) Regulations 2002, he did not get the policy bond within the period of 20 days, he contacted the functionaries of the OP on 26.05.2011 for issue of the policy in order to seek cancellation of the same to be issued to him showing some servicing problem . After 8 months, when

he was absent from his house the policy document brought by the courier was not received in his house. It was returned with endorsement "Refusal to Receive" made on 19.11.2011.The Op sent the policy and got it delivered to his mother-in-law who was unaware of anything regarding the policy. His mother-in-law handed over to him on 06.02.2012. On the next day of receipt of the policy bond i.e., 07.02.2011 he sent by speed post his request for cancellation of the policy .But the OP unjustly declined to cancel the policy assigning the reason of receipt of his request for cancellation after free-look period of 15 days even though it had made the delay of 8 months in delivering the policy bond to him. Being thereby aggrieved he has filed the complaint seeking relief for cancellation of policy and refund of his deposit.

The OP stated that after fully understanding the terms and conditions of the Jeevan Tarang policy, the Complainant whose wife had taken a policy under the same plan, filed the Proposal for the Policy on 09.03.2011 clearly opting the mode of payment of premium as 'Yearly'. The First Premium Receipt of the policy which the complainant required for availing of the benefit of Income Tax rebate for the financial year 2010-11, was immediately issued to him mentioning basic terms & conditions of the policy, mode of payment of premium instalments and Date of Commencement of the policy. But for non-submission of the minor requirement regarding address proof by the Complainant, there occurred delay in sending of the policy to the Complainant. The Branch Office sent the policy bond to him through courier on 19.11.2011 which he (Complainant) intentionally refused to receive. As the company attaches great importance to customer service, the policy bond was once again sent out and it was got delivered through the Agent who owing to the absence of the insured-proposer handed over the same to his (insured's) mother-in-law at his residence on 03.12.2011. 2 months & 8/10 days after sending of the policy bond, the Complainant approached its satellite office on 07.02.2012 with *malafide* intention to cancel his policy by unfair use of cooling–off clause to get return of the whole deposited amount in the name of "Cooling-off" clause. As such the request for cancellation of policy was denied.

Award:

It is the specific contention of the complainant that on 26.05.2011 he approached the functionaries of the OP for issue of policy bond early to him so that he would cancel the policy .This assertion of the Complainant is not denied by the OP . The Complainant has filed the photo-copy of his letter dated 26.05.2011 wherein he had complained about the policy being made an annual-premium policy instead of a single premium policy .Stating his inability to pay the amount of Rs 90,000/- annually, he had requested for issue of policy bond to him to enable him to seek cancellation of the policy. When such a fact was intimated in writing by the person to be insured to the Insurer several months before issue of the policy, the OP should have taken care to deal with the matter. As already noticed, under Regulation 6(2) of the Regulations 2002 the insured is allowed a liberty to ask for cancellation in the event of his disagreement to any of the condition of the policy within the stipulated period subsequent to receipt of the policy. Much before such stage i.e., several months before the issue of the policy to him by the OP-Insurer, the insured had communicated his disagreement to the condition in the policy as regards mode of payment of premium and his intention to seek cancellation of the policy after issue of the same to him .Yet without taking the objection of the Proposer into consideration, the policy was issued several months after. This apart, even assuming that

as stated by the OP there was delay of 2 months and eight days after issue of the policy in exercise of option by the Complainant, when the OP itself made the delay of eight months in delivering the policy bond, it would be unfair and not be justified on its part to raise objection on the ground of delay against the Insured . Rule 14 of RPG Rules, 1998 envisages that a complaint received at this forum is to be disposed the fairly and equitably. The principle of equity envisages that he who seeks equity must do equity. The OP having made delay of 8 months in issuing the policy it would not be appropriate on its part to blame the insured for the alleged delay of 2 months and 8 days in seeking cancellation by the complainant. So it has to be concluded that within the cooling period of 15 days the complainant has field his application for cancellation of the policy and is entitled to refund of premium paid by him subject to deductions in terms of the above Regulations,2002. Hence the complaint is allowed. The OP is directed to cancel the policy of the complainant under cooling off clause and to refund the premium paid subject to deductions as envisaged in Regulation 6(2) of Regulations, 2002.

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<u>Bhubaneswar Ombudsman Centre</u>

Complaint No. 24-001-1671 Miscellaneous
Smt. Minakshi Das,Vs LIC of India, Bhubaneswar DO.
Date of Award …… 03.07.2013

Fact: This is a complaint filed by the Complainant for getting refund from her Insurer of the amounts deposited by her on her two polices of insurance taken from the OP-Insurer.

It is stated by the Complainant that she had taken two of policies of insurance-one under Jeevan Saral with Profit plan and other one under Endowment Assurance with profit plan commencing from 07.02.2009 and 06.03..2009 respectively from the OP vide Policy No.586631968 and Policy No. 586632975 respectively . At the very commencement of the transaction, she had conveyed her choice to the Agent for one-time deposit policies .But without her knowledge the Agent made her policies as regular premium policies. After receipt of the policy documents when she found issue of regular premium policies to her, she contacted the Branch Manager of the servicing Branch of her policies for cancellation of the policies and refund of her deposits. She was then told that after completion of three years she would get back her money. Her policies have completed 3 years. Yet the deposits were not refunded to her despite several reminders being sent by her to the OP. Being thus aggrieved, she has filed the complaint seeking appropriate orders.

The OP stated that as per the details furnished in the signed Proposal Papers of the two policies in question were issued. Further, before issue of the successive Policy Bonds, the 1st premium deposit receipts of both policies containing information like Policy No. Mode of payment of Premiums &Amount of Premium etc. were supplied to the Complainant who did not then raise any objection seeking cancellation of the policies. It is further also stated by the OP that on the last page of the policy bonds, it was clearly mentioned that 'YOU ARE REQUESTED TO EXAMINE THIS POLICY AND IF ANY MISTAKE BE FOUND THEREIN TO RETURN IT IMMEDIATELY FOR CORRECTION. Had the complainant pointed out the mistake as to the mode, the policies could have been got cancelled and amounts refunded after deduction of "Cooling-off" charges. It is stated by the OP that for non-

payment of premiums at least for 3 years ,both the policies have lapsed and nothing is payable under both the lapsed Policies of the Complainant.

Award:

It is not stated by her if she made any request in writing for cancellation of policies for so-called unilateral change in the mode of payment of premium on the policies from one-time to regular premium policies. It is also not stated as to on which date/ month she contacted the Branch Office for cancellation of the policies and refund of her amounts. Be it mentioned here that the Complainant has not produced any material to contradict the particulars mentioned in the Proposals with regard to mode of deposit of premium on her policies. It would, therefore, follow that the Complainant opted for regular premium policies & not single-premium policies. It is clearly stated by the OP that no premium subsequent to the first one was deposited by the Complainant on her policies. This version of the OP goes uncontroverted. It is not even the contention of the Complainant that any amount beyond the initial deposit was made by her on either of the two above policies. Clause 2 of the policy terms and conditions of both the policies provides that if premium that becomes due is not paid before expiry of days of grace which as the clause shows one month in respect of yearly, half-yearly or quarterly premium policies , the policy lapses. As it has been found, the Complainant took regular premium policies and that the second premium on either of the two policies was not paid by her at all. Due to default in payment of the premiums within the due date or within the period of grace of one month thereafter, the policies by virtue of the Clause 2 of the policy conditions got lapsed. A perusal of the policy condition would show that it is when at least 3 full years premium are paid in respect of the policies and subsequent premiums are not duly paid the policy moves to paid-up status when paid- up value is only payable. In the case at hand, since less than 3 full years premium on both the policies were paid, the complainant is not entitled to any amount on her two above lapsed policies. Hence the complaint being without any merit is hereby dismissed

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Bhubaneswar Ombudsman Centre

Complaint No. 21-005-1680 Miscellaneous

Sri Pramod Kumar Nayak, Vs HDFC Life Ins.Co. Ltd

Date of Award …… 26.08.2013

Fact: . This is a complaint filed for non-cancellation of his policy of insurance and consequent non-refund of his premium deposit and alternatively non-conversion of his policy to one-time deposit policy for maximum term of 5 years by the insurer.

It is stated by the Complainant that on wrong information given by the Agent of the OP to provide him an one-time deposit policy of Insurance, the Agent took his signature in the blank Proposal Form for OP's Savings Assurance insurance policy and paid Rs 30,000/- .As ill-luck, he met with a serious road accident on account of which he could open the policy document after expiry of the free-look period of the policy and found that the policy no. 14449339 was issued with annual premium. He approached the HDFC Life office at Cuttack where he was told that as the free-look period had been over, nothing could be done on his policy. He again represented to the

HDFC Grievance Redressal Cell, Mumbai requesting either to cancel the policy and return the premium amount to him or to convert the policy to one time deposit for a maximum term of 5 years. The Company did not accept any of his requests and wrote to him to continue the policy. Being aggrieved, he has filed the complaint .

The OP stated that the complainant was provided with detailed and adequate information in respect of the policy and that only after understanding the contents, terms and conditions of the policy, the Complainant signed the Proposal form. After receipt of the duly filled in proposal form dated 20.06.2011 containing illustration of future benefits from the Complainant, the Company issued the policy No.14449339 under HDFC Savings Assurance Plan of 10-year term with yearly mode of deposit of premium at the rate of Rs 30,000/- . With the policy documents ,the Option-to-Return-clause letter was sent to the Complainant by Speed post under POD No. ED 246143292IN on 24.06.2011.. For the first time by his letter dated 09.08.2012 the Complainant made the request for cancelation of the policy and demanded refund of the entire premium amount. Which was made beyond the free-look period, his request was not entertained ..

Award:

Complainant's own admission in the Complaint would show that his request for cancellation of policy & refund of the amount was made by him (the complainant) clearly after the expiry of the free-look period of the policy. As such benefit for exercise of option under 'Option to Withdraw' clause would not be available to the Complainant after expiry of relevant 15-days period. There is no dispute that the complainant has paid no further premium except the first one which was paid by him at the time of taking the policy. As per policy conditions no benefit would be available if surrender of the policy is made before payment of premium for 3 continuous years. It has been found the Complainant paid the premium only for the first year and did not pay the subsequent premiums. As payment was made for less than continuous 3 years, surrender benefit under the policy would not be available to the Complainant under the term and condition of the policy. This being so, refund of the deposit amount due under benefit clause cannot be secured by the Complainant. The policy condition does not contain any provision for conversion of the policy to any other plan or term at the instance of the policy holder. Therefore, neither the prayer of the complainant for surrender of the policy and consequent refund of the deposit nor his alternative prayer for conversion of policy for any other term can be allowed under the term and conditions of the policy. In these circumstances, the complaint is liable to be dismissed. Hence the complaint being devoid of any merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 21-012-1694 Health Claim

Smt.Padminee Panda, Vs PNB Met Life Ins.Co.ltd.

Date of Award …... 05.09.2013

Fact: This is a complaint filed for rejection of her Health-Claim raised upon her policy of insurance by the OP-Insurer.

The say of the Complainant is that she had taken the Met Health Care policy of insurance No.20632995 for a term of 3 years commencing from 22.08.2011 from the OP-Insurer with annual mode of deposit of premium at the rate of Rs. 17,157.17. Prior to making the proposal for the policy on 17.08.2011 , she was free from any disease and her health condition was good. Subsequent to the commencement of the policy sometime during the month of October 2011, she had gynecological problem for which she consulted a Doctor who advised her to go for Hysterectomy operation. In the month of December 2011 when she became ill, she went through a health check-up by a local Doctor and continued to take medicines for Diabetes and Heart Problem. For a better health check-up and treatment, she took appointments with Cardiology, Diabetology and Vascular Surgery Departments of Narayana Hrudalaya Hospitals, Bangalore in the month of March, 2012. As per the advice of the concerned Doctor, she stayed at Bangalore from 08.03.2012 to 26.05.2012 which included the period of her inpatient treatment in the Hospital from 15.03.2012 to 21.03.2012 and again from 15.05.2012 to 21.05.2012. After completion of her treatment, she submitted the bills, vouchers, Doctor's Certificate and the Hospital's Discharge Summary etc. to the Bhubaneswar Branch of the Insurance Company on 05.06.2012 for reimbursement of her health claim. But the Insurance Company repudiated the claim assigning the reason that the Discharge Summary of Narayana Hrudayala Hospitals dated 15.06.2012 revealed that she was on medication for Diabetes Mellitus for last 3 years and that she was a known patient of RHD, HTN with having undergone hysterectomy operation . Since facts were wrongly mentioned by the Doctor in the Discharge Summary , She contacted the Doctor of Narayana Hrudalaya, Bangalore and got the rectified Discharge Summary from the Hospital issued to her with mention of the fact in the Previous-History-of-illness column that the duration of the disease of DM in her was for last 3 months .She again applied to the company with corrected Diischarge summary. But the company taking the same view declined her claim .

The OP stated that the Discharge Summary of Narayana Hrudayalaya Hospitals, Bangalore where the Complainant received treatment, revealed that the insured was a known patient of Diabetes for last 3 years and that she was also a known patient of HTN, RHD and had also undergone Hysterectomy. In the Proposal the insured did not disclose these facts.So the claim was repudiated. Again she submitted the corrected Discharge summary with information thatthe Complainant was a known case of DM since 3 months on medication and with RHD with mild MS/MR since 3 months and known case of HTN & obesity, S/P hysterectomy in October,2011.The Complainant did not submit any clarification or explanation of the Hospital authorities how such material difference in the duration of the diseases was ascertained. Both the Discharge Summaries were computer-generated documents wherein the recordings could not be altered without manual intervention. These facts made it to hold that revised Discharge Summary was obtained

malafidely by the Complainant exerting undue influence upon the Hospital authorities. Upon review and analysis of the Discharge Summaries submitted by the Complainant, the claim was repudiated .

Award

Undisputedly, in the Discharge Summary of Narayana Hrudayalaya Hospitals, Bangalore which was initially filed by the Complainant along with her Health-claim under the heading "Previous History" the patient's health history was recorded as 'known case of DM since 3 years on medications, known RHD with mild MS/MR, Known case of HTN and Obesity, S/p Hysterectomy". On the basis which record of the Hospital change in the period of the disease was made is not forthcoming. On the contrary, the copy of the letter dated 07.07.2012 addressed by the Complainant jointly to the Dr. Rajesh, Sr. Consultant Vascular Surgeon and Dr. Niranjan Hiremath, Fellow in Vascular and Endovascular Surgeon, Deptt of Vascular Science, Narayana Hrudayalaya, Bangalore would show that after the Insurance Company treated the Health claim of the Complainant void on the ground that the Diabetes was continuing with her since 3 years along with RHD, HTN and Obesity, the Complainant woke up to make request to the above doctors to correct the Discharge Summary in the manner it was indicated by her in the letter and that almost in the line suggested by her, the subsequent Discharge Summary insofar as the duration of diseases with the patient was shown in the Discharge Summary under "Previous History" of the patient . The Complainant who is primarily responsible to show that mistakes were committed in noting the age of the disease in her in the first Discharge Summary which obviously must have been prepared on the basis of the case sheet of the patient maintained in the hospital during the period of her treatment .has not chosen to file the copy of her treatment sheet to show that what was recorded earlier was wrong. For settlement of health claim Discharge Summary is a vital document. How the entry in the so called document which the complainant herself filed escaped her notice remains unexplained. In such circumstances it would be difficult to rely on the second Discharge Summary as to the duration of diseases in her. When the relevant portion of the subsequently issued Discharge Summary under the previous History is eliminated from consideration, the initially issued Discharge Summary would stand out as the authentic basis for determination of the question of entitlement of the Complainant to the Health claim. When fact noted in the document is taken in to consideration, it would bring out that roundly from March'2009 the Complainant was suffering from Diabetes and she was on medication for the disease. The Proposal being made by the complainant on 17.08.2011, the date was much subsequent to the commencement of suffering of the complainant from the disease of Diabetes which health condition was within her knowledge. As already noted, in the proposal the Complainant did not disclose her above disease. It would thus follow that suppression of material facts as regards her health was made by the complainant for taking the policy. In such circumstances, the OP is clearly justified in denying the health benefit to the Complainant. Hence the complaint, being without any merit is hereby dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 24-015-1703 Miscellaneous
Sri Badri Narayn Prusty, Vs Bharati AXA Life Ins.Co.Ltd.
Date of Award …… 30.09.2013

Fact: This is a complaint filed for refund of the premium deposit made on the policy of insurance alleging mis-sale of policy by the Insurer.

It is stated by the Complainant that being persuaded by one Sri Bhaskar Roy, an Agent of the OP, with false assurances that upon deposit of Rs.20,000/- each for 3 consecutive years, he would earn a bonus of Rs.7, 000/-per year and that if further deposits after 3 years would not be made towards premium he would get return of all his deposits with interest, he agreed to take the policy of insurance from the OP depositing Rs 20,000/- towards the premium. The policy no. 500-7703233 was issued to him by the insurance company. Subsequent to taking of the policy, he could come to know that deposit of the premiums on the policy was to be made for 10 years. As he used to earn his livelihood by running a small betel shop, it was not possible on his part to pay such premium amount for 10 long years. So he requested the Grievance Cell and Redressal Officers of the Company to refund his deposit. As there was no response, feeling aggrieved, he has filed this complaint seeking a direction to the OP to refund his deposited amount under the policy with interest.

While denying complainant's allegation of mis-sell, it is stated by the OP that after understanding the terms and conditions of policy, the Complainant signed and submitted the Proposal for the policy of insurance for 10-year term under Ajeevan Anand plan on his life on 25.07.2011 with annual mode of deposit of premium depositing Rs 20,000/- towards first premium deposit on the policy. Basing on the requirement specifications given by the complainant in the proposal, the policy no. 500-7703233 was dispatched to him on 28.07.2011 by speed post no. AWB EM 788694082IN with copies of the proposal form , signed benefit illustrations and other documents to the complainant in the address furnished in the proposal form and a covering letter mentioning that " should this policy not be to your complete satisfaction, you may revoke the same within 15 days from the date the policy bond is received by you". The complainant retained the policy bond and did not return the same to the company within 15 days alleging any discrepancies. After 1 year from the date of issuance of policy bond, it received the complaint letter dated 07.08.2012 from the complainant alleging mis-sale and seeking cancellation of the policy. It was not able to accede to the request of the complainant as there was no mis-sale of the policy made to him and as he (complainant) approached it much beyond the free-look period of the policy.

Award:

A perusal of 'Policy Specifications' and the 'Policy Bond', copies of which are filed by the Complainant ,would bring out that the Complainant took the annual premium policy of 10-year term commencing from 26.07.2011. The copy of the 'Proposal From' of the Complainant as filed by the OP would show that the Complainant applied for an

annual premium policy of 10 year term signing the proposal 25.07.2011. The further submission of the OP's representative at hearing that the policy bond sent by Speed post was received by the policy-holder on 06.08.2011 is not opposed to by the Complainant. It would thus follow that the policy bond of the annual premium policy under Aajeevan Ananda plan as opted for by the Complainant which commenced from 26.07.2011 was received by the Complainant-policyholder on 06.08.2011.Though in the complaint, the Complainant does not state the date when he made the application for refund of the premium amount, yet it would appear form the copies of the letters addressed to the different functionaries of the OP as are filed by the Complainant himself that his request for refund of the premium alleging mis-sell was made first on 19.07.2012 i.e., around 11 months after receipt of policy bond by him. Thus, clearly much beyond the free look period of 15 days from the date of receipt of the policy bond, request for refund of the amount was made by the complainant. In the policy bond, there is no other condition save & except the free-look clause enabling the policy-holder to ask for refund of his premium deposit. Necessarily thus, the claim of the Complainant for refund which was made after the expiry of free-look period does not get any support from the conditions of the policy.

The complainant does not dispute the status of his policy which as contended by the OP is in lapsed condition. It provided that if, when minimum 3 policy year's premiums are paid, option is available to convert the policy to paid-up condition within the period allowed for reinstatement of the lapsed policy. As per the policy condition if the policy lapses before payment of 3 years premium, no benefit under the policy would be payable. It is not the case of the complainant that he paid the premium on the policy for more than one year. The policy specifications would indicate that the 2nd annual premium on the policy of the Complainant was due on 26.07.2012. The premium due was not paid by the Complainant. The grace period for deposit has long since been over. As per the policy condition, the grace period being over, the policy has gone into lapsed status. As per the policy condition, when policy lapses within first 3 years, no benefit would accrue on such policy to the policyholder. In the above circumstances the complainant is otherwise also not entitled to get refund of any amount out of his premium deposit as is sought for by him. Hence the complaint being devoid of any merit is hereby dismissed

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Bhubaneswar Ombudsman Centre

Complaint No. 24-001-1704 Miscellaneous

Sri Prahallad Jena, Vs LIC of India, Bhubaneswar DO

Date of Award …… 27.09.2013

Fact: . This is a complaint filed by the Complainant for delay in payment of interest for late payment of maturity value on his policy of insurance by the Insurer.

The case of the complainant is that he had taken the policy of insurance bearing no. 581278771 from the OP with date of maturity on 31.03.2009. The Company paid him the maturity amount as late as in July 2010 through OSCB Ltd. As the maturity value was paid to him after 15 months of the maturity date, he demanded payment of interest for the period of delay in payment of the matured amount. He did not get any

response to any of his letters sent by ordinary and also by speed post .His personal contact with the officers of the Branch of the OP did not yield any result. Being aggrieved, he has filed the complaint seeking payment of interest on the matured amount for the period of delay.

The OP stated that the policy matured on 28.03.2009. The Cheque no.85104 dated 31.03.2009 for Rs 29,094/- towards the maturity value was drawn up and kept ready for being sent to the policy-holder. But for non-compliance for pre-payment requirements by the policy-holder who did not file original policy bond and the Discharge Voucher, the cheque was not dispatched. The policy holder submitted the documents on 14.05.2010 whereupon the maturity claim for Rs 29,094/- was released in his favour by issue of fresh cheque no. 525468 dated 25.06.2010 which was encashed by the policy holder on 07.07.2010.

Award:

Pursuant to the submission made on behalf of the OP at hearing, by its e-mail dated 29.08.2013 it is communicated by the Bhubaneswar Branch-II of the OP that for the period of delay from 28.03.2009 to 26.05.2010, it has paid penal interest to the Complainant amounting to Rs 3,544/- by cheque no. 43959 dated 27.08.2013 and that the cheque has been sent to him by Speed-post under no.EO754360115IN.It thus appears that the relief which the Complainant has sought for in the complaint has been secured by him. In the circumstances, the complaint is liable to be dismissed. Hence the penal interest having been already paid to the Complainant by the OP, the complaint is dismissed.

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Bhubaneswar Ombudsman Centre

Complaint No. 22-003-1705 Miscellaneous

Sri Jugal Kishore Sahu, Vs Tata AIA Life Insurance Co Ltd.

Date of Award …… 27.09.2013

Fact: This is a complaint filed for non-refund of his premium deposits made for his health insurance policy by the Insurer.

The grievance of the Complainant is that he had taken from the OP its Life Invest Assure Health Plus policy for 15-year term bearing Policy no. U153494408 on his own health commencing from 28.02.2010 with annual mode of payment of basic premium of Rs.20,564/- plus Service Tax. He paid the premium amounts for the first two consecutive policy years. But when he went to pay the premium for the 3rd year i.e., for 2012 in the office of the OP at Berhampur, the deposit was not accepted from him showing the reason that the policy had been closed. But no communication regarding closure of his policy was made to him by the OP. It is further stated in the complaint that the OP paid him only a sum of Rs. 2,625/- as against his hospitalization claim for Rs 23,000/- under Claim No.BH 11006813. Being dissatisfied with the service provided to

him by the OP-Insurer on the policy taken by him, he has asked for refund of his premiums for the years 2010 and 2011 amounting to Rs. 20,883/- and Rs.20,979/- respectively totalling upto Rs 41,857/-(But the total works out to Rs.41,862/-) paid by him.

The OP stated that after being convinced of features of & benefits under the policy, Complainant submitted his duly signed proposal to the Insurance Company for taking the policy under its "Invest Assure Health Plus" plan on his own life and accordingly policy under No. U 153494408 with 15year premium paying term was issued on 28.02.2010 for a sum assured of Rs.3, 00,000/- . Sometime in November, 2011, he (Insured-Complainant) filed the Hospitalization Claim Form with his treatment papers. After scrutiny the company settled his claim as per the terms & conditions of the policy and paid him a total sum of Rs.2,625/- comprising of Rs. 1,575/- for Daily Hospitalistion Benefit and Rs 1,050/- for Surgical Hospitalization Benefit, on his claim vide Cheque no. 667419 dated 14.03.2012 drawn on HDFC Bank. It is also stated that the Hospitalisation claim of the Complainant has been appropriately settled. In the additional reply submitted subsequently, it is further stated by the OP that as per its record the LA has till date i.e., 16.08.2013, the date mentioned below the company's signatory in the additional reply, paid two premiums by SBI Cheques for Rs.20, 000/- & Rs.20, 974/- on the policy which is currently in active status with no surrender/auto-surrender of the policy having been made by the date.

Award:

When the 3rd premium on the policy was not accepted by the Berhampur Office of the OP despite his approaches, feeling harassed he requested for refund of his two earlier premium deposits on the policy. The fact of non-acceptance of the premium due on the policy on 28.02.2012 from the Complainant is not denied by the OP. On the contrary, the OP has indirectly accepted the position of premium amount being not accepted from the Complainant which is borne out from the text and the tenor of its Mail dated 24.10.2012 addressed to the Complainant. By non-acceptance of the premium when insured offered the payment, the OP necessarily did not perform its part of the obligation under the policy. In the policy conditions there is absence any stipulation as regards the situation as above. Yet, it is to be remembered that the policy of insurance is a contract of insurance where under by payment of the premium by the insured, risks as specified in the policy are covered by the insurer. So long as the policy remains active, the Insurer, in the instant case the OP is bound to receive the premium when given for deposit by the policy holder. By non-acceptance of the deposit of premium, it would follow, the condition of the policy is breached by the insurer. It is then the option of the insured to ignore such lapse with the insurer and to continue with the policy. Mere fact of expression of regret for breach of the condition by one party to the contract would not make a wrong a right. It has been found that the OP did not accept the premium on the policy when the complainant offered to deposit the premium due on 28.02.2012. This action of the OP has resulted in breach of the insurance contract by it (OP). The complainant has not accepted the letter of regret of the OP to thereby ignore the breach committed by the OP. When violation has been made by the OP, the complainant is entitled to withdraw from the contract and can justifiedly ask for refund of the premium under the policy which was taken by him for a term of 15 years commencing from 28.02.2010. A contention is advanced on behalf of the OP at the hearing that in the copy of the

complainant petition which was received by it, there was no grievance raised relating to the non-receipt of the premium. Perusal of the written complaint would show that in the very first line of his written complaint made to this forum, the complainant has very clearly stated about the Berhampur office not receiving the premium amount on the policy for the year 2012 as policy was declined. The submission made on behalf of the OP is therefore without any substance. To conclude therefore, the complainant is entitled to get back his premium deposits as made by him for 1st and 2nd years of the policy for breach of the contract of insurance by the OP by not accepting the premium deposit. The second grievance of the complainant is with regards to his hospitalization claim. The OP in its counter has furnished detailed reply with regard to the hospitalisation benefit asked for by the complainant and has stated that the claim was settled for Rs. 2,625/-. The complainant petition would show that the claim was made for Rs. 23,000/- But it was neither stated in the complaint nor pointed out at the hearing by the Complainant which amount in his claim was wrongly disallowed by the OP. In view of the conclusion arrived at concerning the premium issue, the complaint deserves to be allowed in respect of the deposited premium. Hence the complaint is allowed in part. The OP is directed to refund the first two premium deposits made on the policy to the Complainant in time.

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CHANDIGARH

Chandigarh Ombudsman Centre

CASE NO. Bajaj/2242/Pune/Patiala/22/13

In the matter of Vishnu Sharma Vs Bajaj Allianz Life Insurance Co. Ltd,

Order Dated: 02.09.2013 **Misselling**

Facts: - **Shri Vishnu Sharma was sold two insurance policies bearing numbers 0097831394 and 0076895940 for a sum of Rs. 85, 000/- in April, 2008. His application on 26.5.2012 for cancellation due to non receipt of policies was not responded by the company.**

Findings: - **Insurer clarified that both policies are issued on the basis of proposal form signed by Shri Vishnu Sharma and Smt. Jamuna Devi. The policy document were delivered on 28.01.2007 and 28.04.2008 but Shri Vishnu Sharma contacted the company on 26.05.2012 about a non**

receipt of polices. Thus it was declined by the company on account of a delay.

Decision: - **Held that there is a case of deficiency in service on the part of the company. In Fact, the features of the policies were not properly conveyed at the time of selling. Moreover, the company did not produce a concrete proof of the delivery of the policy documents. An award is passed with a direction to the insurer to cancel both the policies and make a refund of premium paid.**

Chandigarh Ombudsman Centre

CASE NO. LIC/1048/Amritsar/Amritsar/24/13

In the matter of Babita Vs Life Insurance Corporation of India

Order Dated: - 25.07.2013 **DAB Payment**

Facts: - **Smt Babita had filed a complaint about non settlement of Accident Benefit claim under policy bearing number 471585365 on the life her husband Late Shri Deepak Kumar. Despite a repeated follow up action, there was no response.**

Findings: - **The insurer clarified that the policy issued to deceased life assured Shri Deepak Kumar was under Table &term 179/20/20 having a special feature of Auto Cover. According to the clause of Auto Cover "If after having paid premiums for two years and subsequent premium be not paid, death of life assured occurs within a period of two years from the date of first unpaid premium then the basic sum assured is payable. Hence, the double Accident Benefit was not paid.**

Decision: - **Held that there appear to be no deficiency in service on th part of the company. Moreover, the company seems to be justified in denying the DAB as it was not covered in view of terms and conditions of the policy. Keeping in view this factual position, the complaint is dismissed.**

Chandigarh Ombudsman Centre

CASE NO. Aegon/942/Mumbai /Panchkula//22/13

In the matter of Shri Manmohan Singh Grewal Vs Aegon Religare Life Insurance Company Ltd.

Order Dated: - 04.07.2013 **Misc**

Facts: - **Shri Manmohan Singh Grewal filed a complaint about misselling of policy bearing number 111113341122 wherein proposal form was altered and policy with forged signatures containing incorrect was issued. When he requested for a cancellation and a refund, it was not considered.**

Findings: - **The insurer clarified that the policy was issued on the basis of details furnished in the signed proposal forms and the policy was delivered, but he did not opt to return the policies within free look period. In view of a delay, request for cancellation and a refund was declined.**

Decision: - **Held that there is a case of deficiency of service as the policy holder was not properly guided at the time of proposal and application form was altered without his consent. Moreover, the selling agent disassociated himself from the Company. Incorrect particulars and forged signatures indicate filling of proposal form by the agent. An award was passed with a direction to cancel the policy and refund the premium.**

Chandigarh Ombudsman Centre

CASE NO. Aegon/1898/Mumbai /Panchkula//22/13

In the matter of Surinder Nath Sharma Vs

Aegon Religare Life Insurance Company Ltd.

Order Dated: - 30.08.2013 **Misc**

Facts: - **Shri Surinder Nath Sharma filed a complaint about misselling of policies bearing number 110913253660 and 110913262553 wherein deposit of declined proposal, instead of refunding, was utilized toward life coverage of children and regular premium policies for a term of 16 years with an annual premium of Rs.309269/- were issued. When he requested for a cancellation and a refund, it was not considered.**

Findings: - **The insurer clarified that the policies were issued on the basis of details furnished in the signed proposal forms and the policies were delivered, but he did not opt to return the policies within free look period. In view of a delay, request for cancellation and a refund was declined.**

Decision: - **Held that there is a case of deficiency of service as the policy holder was not properly guided at the time of proposal and deposit was utilized towards policies of daughter and son, forging their signatures, being both not present at the proposal stage, son was in South Africa and daughter in Chennai and insurer was directed to refund the premium amounting to Rs.309299/-.**

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Chandigarh Ombudsman Centre

CASE NO. HDFC/131/Mumbai/Faridkot//22/14

In the matter of Shri Baldev Singh Singh Vs HDFC Life Ins. Co. Ltd.

Order Dated: - 30.08.2013 **Misc**

Facts: - **Shri Baldev Singh filed a complaint about misselling of policies bearing numbers 11330065, 113260814 and 11362364 wherein instead of fixed deposits, regular policies were issued. After a lapse of five years, policies were foreclosed and a cheque of Rs.157047.42 was issued as against of premiums paid amounting to Rs.2, 90,000/- Rs.2,90,000/- When he requested for refund of premiums, it was not considered.**

Findings: - **The insurer clarified that the policies were issued on the basis of details furnished in the signed proposal forms and the policies were delivered, but he did not opt to return the policies within free look period. In view of a delay, request for cancellation and a refund was declined. Further, policies were foreclosed as the premiums were not paid.**

Decision: - **Held that there is a case of deficiency of service as the products sold were different from what were projected at the time of proposal. Moreover, the policies were delivered at the mailing address of the agent preventing him to exercise the free look option and an award is passed to refund the premium by canceling the policies.**

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Chandigarh Ombudsman Centre

CASE NO. ICICI/40/Mumbai/Chandigarh/22/13

In the matter of Shri Jagdish Nagpal Vs ICICI Prudential Life Ins. Co. Ltd.

Order Dated: - 14.08.2013 **Misc**

Facts: - **Shri Jagdish Nagpal was sold Insurance policy in September 2009 for Rs. 2, 00,000 /-bearing numbers 12534379 and paid 3 yearly premiums. He has approached the company on 28.01.2013 for a refund but not given any satisfactory reply. Parties were called hearing on 14.08.2013.**

Findings: - **Insurer Clarified that the proposal form signed by Shri Jagdish Nagpal on 01.10.2009. Accordingly policy was delivered on 03.10.2009. But a request for cancellation dated 28.01.2013 was beyond free look period.**

Decision: - **Held that the complainant's allegation of misselling is not borne out by facts and circumstance of the matter. In fact, he obtained the policy after signing proposal form. Moreover did not raise any concern after receipt of policy documents and paid next renewal premiums. In view of this factual position, there is no merit in the complaint and the same is dismissed.**

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Chandigarh Ombudsman Centre

CASE NO. Kotak Mahindra/821/Mumbai/Ludhiana/22/12

In the matter of Shri Kirpal Singh Vs Kotak Mahindra Life Ins Co. Ltd.

DATE OF AWARD: 18.04.2013 **Misc**

FACTS : **On 20.09.2011 Shri Kirpal Singh filed a complaint in this office about a purchase of a policy bearing number 01745280 from Kotak Life Insurance Company and a sum of Rs.108000/- was deducted through ECS from his bank account at different interval. After, he had received a sum of Rs.36000/- wrongly deducted by the company made a plea for a payment of interest thereon for a delay of 8-9 months. Being an old person he was not in a position to continue for such along span of time.**

FINDINGS: **It was found that there was no misspelling on the part of the company. The contention of Shri Kirpal Singh of payment of premium twice in a year was because of ECS ,an automated facility which he opted for. Since the company could not get the premium in due time through ECS, Mr. Kirpal Singh issued a cheque to pay the premium on 16.12.2010. But On 17.10.2010 the premium was deducted through ECS, thereby the second payment was kept in suspense account which was later on refunded. So, his grievance for deduction of extra premium was resolved by a refund.**

DECISION:- However, considering his contention of an old age and limited premium paying capacity company is directed to convert the policy into a single premium mode with a short term not exceeding five years, after adjusting the premium already paid without any further premium paying obligation.

Chandigarh Ombudsman Centre

CASE NO. Kotak Mahindra/727/Mumbai/Chandigarh/22/12

In the matter of Shri Raj Kumar Bateja Vs Kotak Mahindra Life Ins Co. Ltd.

DATE OF ORDER :23.07.2013 **Misc.**

FACTS: **On 10.08.2011 Shri Raj Kumar Bateja had filed a complaint in this office about a purchase of a policy bearing number 02082525 from Kotak Life Insurance Company by paying a sum of Rs.21000/-in 2010 for a period of three years. Actually, on his visit to local branch office he got call from company conveying his selection for a surprise gift, which was never materialised. Later on, while depositing second installment, he learnt that the first year premium was not allocated to the policy account which prompted him to discontinue the policy. Further, his application for cancellation and a refund was not accepted by the company.**

FINDINGS: **It was observed that Raj Kumar Bateja and his wife visited the local office of the company, where he was apprised about doubling of invested money of Rs.20000/- per annum for a period of three years. But, owing to short term and assured returns he agreed to purchase the policy. However, on its receipt he sought clarifications from the company to clear his doubts. Subsequently, after one year on payment of renewal premium, he realised that the first year premium was not allocated to investment fund and decided not to pay next premiums. Further, his representation for cancellation was not considered by the company. Actually, terms and conditions of Kotak Super Advantage Plan Shri Raj Kumar Bateja had applied through filled and signed proposal form dated 05.08.2010 and policy was issued /delivered to him. He clarified that a request for cancellation on 18.07.2011 was beyond free look period. He disclosed that**

they said that the first year premium is payable only on maturity along with 200% increase.

DECISION : Being a bank employee Shri Raj Kumar Bateja is expected to understand the features of the product he was opting for. In fact, after the company delivered the policy documents, an option for cancellation could have been exercised within free look period which he failed to do. Moreover, instead of taking up the matter through the policy document informal written form he totally relied on a oral version of the agent. Keeping in view this factual position, the complaint is dismissed.

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Chandigarh Ombudsman Centre

CASE NO. Birla Sun Life/1036/Mumbai/Ludhiana/22/13

In the matter of Kiran Bala Vs Birla Sun Life Insurance Co. Ltd.

DATE OF ORDER: 11.07.2013 **Misc**

FACTS: **On 22.08.2012, Smt.Kiran Bala had filed a complaint in this office about missale of five policies bearing numbers 005044510, 005129749, 005171601, 005297383 and 05079331 by Birla Sun Life Insurance Company on the pretext of getting a refund of earlier investment of ICICI Prudential Life along with an investment as promised by the representative of Endeavour Insurance Broking Ltd., which was not received by her. As she failed to get her earlier investment, she wrote to Birla Sunlife Insurance Company for the cancellation and a refund.**

FINDINGS: **It was observed that Ms. Kiran Bala had invested in ICICI Life Insurance. Subsequently, she was promised a refund by the representative of Endeavour Insurance Broking agency posing as ICICI staff, provided a policy from Birla Sun Life Insurance Company is purchased by her. She agreed to their terms and had bought five policies one after another on the basis of verbal conversations with the agent from 31.08.2011 to 31.12.2011, without going through the contents of the policy documents till the promised day of a refund i.e.31.05.2012. Further, the representation for cancellation and raising an issue of misselling obtained on 07.05.2012 was beyond the prescribed free look period, which was conveyed to her on 12.05.2012.**

DECISION: **Smt.Kiran Bala was given an option in all the policies for cancellation within a period of 15 days from its receipt. Undoubtedly, she did not return the policies or wrote for any request to the company within free look period. Moreover, she relied too much upon the verbal commitments rather than a written communications or documents. Therefore, in view of this factual position, the complaint is dismissed.**

Chandigarh Ombudsman Centre

CASE NO. Birla Sun Life/892/Mumbai/Ludhiana/22/13

In the matter of Harminder Kaur Vs Birla Sun Life Insurance Co. Ltd.

DATE OF ORDER: 13.06.2013 **Misc**

FACTS: **Ms. Harminder Kaur filed a complaint in this office about a purchase of a policy bearing number 001604078 dated 28.3.2008 from Birla Sun Life Insurance Company on an assurance of agent that the company has launched a policy in which she would get Rs.11, 50,000/- after 20 years by paying a single premium of Rs.50000/-. Thereafter, she did not obtain any communication regarding fund statement of the policy from the company. Further, she contacted the company vide letter dated 26.07.2011 for an action against Ms.Harshita Shareen and a refund of promised amount, which was not responded by the company.**

FINDINGS: **It was observed that Smt.Harminder Kaur had applied for an insurance policy "Dream Plan" for a sum assured of Rs.678500/- vide application no.A11172883 dated 26.03.2008. Accordingly, on 28.3.2008, a policy was issued and delivered on 07.04.2008 along with the detailed description of features including sales illustrations of the said plan. Further, produced all the documents were duly signed by Smt. Harminder Kaur who did not raise any aspect with in free look period. Thereafter, the policy got lapsed due to non payment of premium on 28.03.2009. Subsequently, on 25.05.2009, a lapsation notice was issued, but the insurer did not receive any further premiums and policy got terminated.**

DECISION: **It does not appear to be a case of misselling. Actually, the issue of a refund of premium was not raised within the free look period. Hence, in view of this factual position, the complaint is dismissed.**

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GUWAHATI

GUWAHATI OMBUDSMAN CENTRE
Complaint No. 23/L012 /154/12-13/Ghy

Mrs. Lunglung

- Vs -

PNB Met Life India Insurance Co. Ltd.

Date of Order : 26.06.2013

Complainant: The Complainant stated that she had come to know on 22.01.2013 on speaking to Metlife Call Centre representative that one of her policy with them bearing Policy No. 00483406 was cancelled and a new policy with Policy No. 20969800 was issued on 20.12.2012 without her authority or notification. It was also found that her signature was forged on a 100 Rupee stamp paper for issuance of a duplicate policy with Policy No. 00483406, which she had not signed or instructed. Being aggrieved, on 23.01.2013 she sent a letter to the Insurer for immediate cancellation of the policy bearing Policy No. 20969800 and refund the amount of Rs. 7.21 lakhs with interest. But the Insurer did not respond to her letter till now. Hence, the claimant has preferred to make this complaint.

Insurer: The Insurer has stated in their "Self Contained Note" that they have settled the matter by cancelling the policy and refunding the amount of Rs.7,21,001.95 vide cheque No. 194936 dated 03.05.2013. The cheque was dispatched to the Customer's mailing address on 04.05.2013 through Blue Dart Courier with POD No. 40431457743 and the same was encashed by the Complainant on 29.05.2013.

Decision : It appears from the "Self Contained Note" as well as from the statement of the representative of the Insurer that they have cancelled the policy and refunded the amount of Rs.7,21,002.00 vide cheque No. 194936 dated 03.05.2013. The Complainant encashed the cheque on 29.05.2013 in her Bank Account. Since the grievance of the Complainant has been redressed by the Insurer during the pendency of the complaint, we feel it proper to treat the complaint as closed and accordingly the complaint is dismissed and is treated as closed.

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GUWAHATI OMBUDSMAN CENTRE
Complaint No. 21/L006/095/12-13/Ghy

Mr. Hirak Bhattacharjee

- Vs -

Birla Sun Life Insurance Co. Ltd.

Date of Order : 30.04.2013

Complainant: The Complainant stated that he procured BSLI Saral Health Plan bearing Policy No. 003920512 for spouse from the above Insurer with the date of commencement on 08.03.2010. While the policy was in force, his wife Mrs. Manisha Bhattacharya had taken treatment in Swagat Hospital, Guwahati from 02.05.2012 till 23.05.2012. An Operation was done for Gall Bladder. Thereafter, the Complainant lodged a claim for Rs. 56,452/- before the Insurer along with all supporting documents. But the Insurer has refused to reimburse the claim amount. Being aggrieved, he lodged this complaint.

Insurer : The Insurer stated that the Complainant had submitted the treatment papers and medical certificates of Dr. Subhash Khanna in support with the claim form. The treatment paper of the said doctor reveals that LA had undergone Ultra Sonography on April 02, 2010 wherein the USG Report showed Cholesterol Crystals in Gall Bladder with hepatic stenosis. The Life Assured diagnosed was within the waiting period of 90 days. As per the policy provisions of Saral Health Plan, no Insurance Health Benefit is payable within a period of 90 days from the policy date or effective date of revival whichever is later, except in respect of injuries caused by accident, which is payable during these 90 days. They further stated that the Life Assured was diagnosed to be suffering from Cholesterol Crystal in Gall Bladder with hepatic steatosis on April 02, 2010 which is within the waiting period of 90 days from the policy date which is March 08, 2010, thereby falling under the purview of the exclusion provision of the policy and further the Complainant was treated for the said manifestation of the disease in May 2012. Further the Doctor had also stated in the medical report that LA was diagnosed with an old case of healed fissure and is euthyroid. The claim of the claimant was rejected due to the above mentioned reasons.

Decision :- On perusal of prescription dated 02.05.2012 issued by Dr. Subhash Khanna, it is clearly mentioned in that prescription that the Insured Mrs. Manisha Bhattacharya had undergone USG (2010) 02.04.2010, Cholesterol Crystals GB Hepatic Steatosis. It is ample clear from the said prescription that the Insured had undergone Ultra Sonography on April 02, 2010 i.e. within the waiting period of 90 days as the policy was issued by the Insurer to the Complainant on 08.03.2010. As

the sickness of the Insured Mrs. Manisha Bhattacharya manifested within 90 days from the policy issued date, the health insurance benefit is not payable to her.

Considering the entire facts and circumstances, I am of the view that Insurance Company has rightly repudiated the claim as per terms and conditions of the policy. Finding no ground to interfere with the decision of the Insurer of the Insurer, the complaint is dismissed and is treated as closed.

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KOCHI

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-846/2011-12

K K Mohammed

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/01/2013-14 dated 02.04.2013

The complainant had taken a policy from the Respondent-Insurer believing that only 3 premiums are to be paid. He paid 3 premiums of Rs. 1 lac each. The policy was foreclosed by the insurer and the surrender value of Rs. 1 lac was paid. Therefore , the complaint.

The insurer submitted that the complainant had approached CDRF, Malappuram for the same subject matter and produced the copy of the complaint and notice received by them.

Decision:- It is seen that the averments made in the complaint before CDRF and this Forum are identical and pertains to the same policy and subject matter. As per Rule 13(3) (c) of RPG Rules, no complaint to this Forum shall lie if the complainant had approached any Court, CDRF or Arbitrator on the same subject matter.In these circumstances, the complaint filed before this Forum is not maintainable by virtue of the embargo contained in Rule 13(3) (c) of RPG Rules. In the result , the complaint is dismissed as not maintainable. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/ KCH/LI/21-013-836/2011-12

Laila Charles

Vs.

Aviva Life Insurance Co Ltd

Award No.LI/ 2/2013-14 dt. 3.4.2013

The complainant was compelled to take a Pension Plus Regular Unit Linked policy on a yearly premium payment of Rs. 25000/- for five years. The complainant remitted a total amount of Rs. 150000/- in six premiums. When her husband came to Kerala from abroad, he approached the insurer and caused a lawyer's notice. The complainant is entitled to received the amount invested along with profits and cost of Rs. 1500/-.

The respondent-insurer entered appearance and filed a self contained note. The policy was issued based on the proposal. There was no complaint from the side of the complainant within the free look period for cancellation of policy. The complainant had paid only Rs. 100000/- only towards premium.

The point: Copy of the proposal form reveals that the complainant has been shown as employed as an accountant. The complainant would state that she is illiterate and unemployed. In the policy copy produced by the complainant, the final premium payable is on 3.12.11. In the copy produced by the insurer, the final premium payable is noted as 12.3.2006. In both the copies, the date of commencement is noted as 12.6.2006. These errors were not explained from the side of the insurer. Also, regarding revival and lapse of the policy, it is observed that there is no consistency in the contentions raised by the insurer. There is no evidence from the side of the respondent-insurer which could raise any doubt about the authenticity of the six premium receipts issued to the complainant.

Decision: The insurer is not expected to play hide and seek game in their dealings with their customers. Though transparency is expected, it eludes in this case. The contentions raised in the self contained note and at the time of hearing are against their own documents/receipts. These are sufficient grounds to cancel the policy. In the result, policy issued to the complainant is cancelled. The insurer is ordered to pay Rs. 150000/- less stamp duty to the complainant towards refund of premium paid by her. The payment shall be made within the period prescribed failing which the amount shall carry interest @ 9% per annum from the date of filing of complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/ KCH/LI/21-008-853/2011-12

T Somervell

Vs.

Kotak mahindra Old Mutual Life Insurance Co Ltd

Award No.LI /4/2013-14 dt. 10.4.2013

The complainant, a retired government employee, was insisted to deposit Rs. 10000/- with a sales and services agency and he was told that after two years, he can withdraw that amount at any time with accrued interest. After receiving Rs. 10000/- from him, they issued a receipt of the respondent insurer. After one year, the complainant received a renewal premium notice demanding payment of Rs. 10000/-. He did not make the payment. He felt cheated as he never knew that his money had been invested in an insurance policy. He wrote to the insurer and sent a representation to the Grievance Cell of the insurer also. There was no response from the Grievance Cell of the Insurer. Therefore, the complaint.

The respondent-insurer entered appearance and filed a self-contained note. It was stated that based on the proposal form submitted by the complainant, the policy was issued by them. The request made by the complainant could not be allowed as the same was sent much later after the expiry of the freelook period.

The point: The complainant was holding a responsible office with the State Government and it cannot be believed that he had signed a blank proposal form and he did not go through the policy documents when they were received by him. A reasonable prudent person is expected to go through the contents of the documents before he subscribes his signature therein. It is the admitted case of the complainant that he received the renewal premium notice in 2008. But he did not make any enquiry with regard to the reason for the issuance of such notice by the insurer. That also goes to show that the complainant was very much aware that he had applied for a policy and accordingly he was issued with a policy.

Decision: A policy can be cancelled on two grounds. If the insured is not satisfied with the policy, he can make a representation to the respondent-insurer for cancellation of the policy within the freelook period. The second contingency is when the contract of insurance is vitiated on account of fraud, misrepresentation, undue influence, coercion etc. In the instant case, there is no evidence that the complainant was misrepresented by any officer of the respondent-insurer and on account of that, he was misled for making an application for insurance. Also, the policy did not acquire any surrender value. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/ KCH/LI/22-001-862/2011-12

Renji Gopi

Vs.

LIC of India

Award No.LI /5/2013-14 dt. 15.4.2013

The complainant had taken a Jeevan Anand policy with monthly premium of Rs. 436/- under Salary Deduction Scheme. From 11/2003, he was on leave without salary and hence, could not remit further premiums. He sought refund of the amount deposited by him. This request was rejected. Hence, the present complaint.

The respondent-insurer entered appearance and filed a self-contained note. The policy was issued on 28.9.2002 and premiums were received upto 11/2003. The policy did not acquire paid up value as the complainant had not paid three full years' premiums; so , the complainant is not entitled to refund of the premium paid.

The Point: The complainant had paid premiums upto 11/2003. The premium due in 12/2003 was not paid. So, the policy lapsed with effect from 28.12.03 by virtue of clause 2 of the policy conditions. There was no revival of the policy as contemplated under clause 3 of the policy conditions. The rights and liabilities of the insurer and insured are controlled by the policy conditions. As per clause 4 of the policy conditions, the policy will acquire paid up value if only three full years' premiums have been paid by the insured. So the policy had not acquired any paid up value as the complainant had paid premiums only for 15 months.

Decision: The complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/ KCH/LI/21-001-872/2011-12

Chichu Kuriakose

Vs.

LIC of India

Award No.LI/6/2013-14 dt. 15.4.2013

The complainant had taken a health insurance policy from the respondent-insurer. She was hospitalized for surgery and after discharge, sought reimbursement of hospital expense. While hospital cash benefit was provided, the entire hospital expenses were not reimbursed. Hence, this complaint.

The respondent-insurer entered appearance and filed a self-contained note. As per policy conditions, the complainant was provided hospital cash benefit for the tune of Rs. 5250/-. The surgical procedure underwent by the complainant is not a listed major surgery. Hence, no further amount could be paid.

The point: Admittedly, the complainant underwent laparoscopic Cholecystectomy. It is clear that the policy provides payment only in relation to surgeries specified in the Surgical benefit Annexure of the policy schedule. Cholecystectomy is not listed in the Surgical Benefit Annexure. So, the complainant is not entitled to Major Surgical Benefit.

Decision: The daily hospital cash benefit payable to the complainant has already been provided to her. She is not entitled to any further relief. The complaint deserves dismissal only. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/ KCH/LI/21-009-809/2011-12

P Sasidharan

Vs.

Bajaj Allianz Life Insurance Co Ltd.

Award No.LI /07/2013-14 dt. 17 .4.2013

The complainant took a life insurance policy from the above insurer and he was to pay three yearly premiums @ Rs. 50000/-. However, he paid only the first premium and sought refund of the same due to his inability to remit further premiums. Despite representations to the insurer, there was no positive result. Hence, this plea.

The respondent insurer entered appearance and filed a self contained note. As there was no request for cancellation of policy within the freelook period, the complainant is not entitled to receive any amount. On account of non-payment of premiums, the policy lapsed and as there was no request for revival, the policy was foreclosed. The complainant stated that he was under the definite impression that he needed to pay a single premium only and on completion of three years, he would get back the premium with accrued benefits.

The Point: As per the proposal form, the complainant had applied for a regular premium policy wherein the benefit term and the premium paying term are ten years. The policy is issued in tune with the requirements made in the proposal form. As per the relevant policy conditions, the complainant is not entitled to any amount towards surrender value or return of premium.

Decision: As on date of lapse, the fund value of the policy was Rs. 23000/-. That goes to the funds of the insurer as surrender charge. So, nothing is left to the complainant. However, Rule 18 of the RPG Rules empowers the Insurance Ombudsman to order ex-gratia payment in appropriate cases. The complaint is disposed of with a direction to the respondent-insurer to pay Rs. 12500/- to the complainant on an ex-gratia basis. The payment shall be made within the period prescribed failing which it shall carry interest @ 9% from the date of award till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-004-874/2011-12

Issac E C

Vs

ICICI Prudential Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/08/2013-14 dated 26.04.2013

The complainant had taken a policy from the Respondent- Insurer paying Rs. 1 lac believing it be a single premium one. But he was issued with a regular premium policy and the fore closure value received by him for the same was very less. Therefore, the complaint.

The complainant submitted that the agent has assured him that he will get back the premium paid with benefits even though it is regular premium one.

The insurer submitted that the policy was issued as per the proposal form submitted by the complainant. There was no request for free look cancellation. As there was no payment of further premiums, the policy was foreclosed and eligible amount as per policy conditions was given.

Decision:- The rights and liabilities of the insured and the insurer are governed by the policy terms and conditions. Here it is seen that the policy is issued strictly as per the proposal submitted by the complainant. He had not represented to the insurer regarding the policy issued to him, at any point time. The allegation of misselling advanced by the complainant is not supported by any evidence. The policy was foreclosed due to non-payment of premium and the surrender value as per Clause 4 of the policy conditions was offered by the insurer. So as per policy conditions, the complainant is not entitled to any further amount. But here a situation has arisen where the complainant has lost substantially though he had invested Rs. 100000/- 3 years before. . It is to deal with such situations, Rule 18 of RPG Rules empower the Insurance Ombudsman to provide ex-gratia payment to the insured in appropriate cases. In the result, to meet the ends of justice, the complaint is disposed of with a direction to the Respondent-Insurer to pay Rs. 22057.64 being the foreclosure amount and Rs. 15000/- as ex-gratia to the complainant within the prescribed period, failing which the amount shall carry interest @ 9% per annum from the date of award till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/ KCH/LI/21-015-844/2011-12

K P Vishnu Prasad

Vs.

Bharti Axa Life Insurance Co Ltd

Award No.LI/ 3/2013-14 dt. 5.4.2013

The complainant wanted a single premium policy. He was misled by the officers of the respondent-insurer and provided with a regular premium policy. On receipt of policy, he sent a letter for cancellation and refund of premium. He again sent a representation. There was no proper response. So, this complaint.

The respondent-insurer entered appearance and filed a self-contained note. As per their contention, as the representation from the side of the complainant was not received within the freelook period, the complainant was not entitled to any refund.

The Point: The insurer stated that the complainant had received the policy documents on 13.8.11. If they are sure that the complainant received the policy documents on that date, they could have adduced documentary evidence in support of their contention. In the absence of the same, the contention of the complainant that he received the policy document only on 20.8.11 is to be accepted. The complainant had produced a copy of his complaint dated 27.8.11. The officer representing the insurer submitted that the first complaint was not accepted as the same was not presented by the complainant personally. The policy conditions do not state that the request for freelook cancellation of policy should be presented by the complainant personally. The complainant had submitted further representation. As to why the respondent insurer did not act on those representations, no explanation is forthcoming. The available evidence would reveal that both the representations/complaints were sent by the complainant within 15 days of receipt of the policy documents by him.

Decision: The respondent insurer is directed to cancel the policy and refund the premium less stamp duty and other initial charges. The payment shall be made within the period prescribed failing which, the amount shall carry interest @ 9% pa from the date of filing of complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-933/2011-12

Shali Antony

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/09/2013-14 dated 07.05.2013

The complainant had taken a policy from the Respondent-Insurer paying Rs. 1 lakh believing it to be single premium one. On receipt of the documents, she came to know that it was a regular premium policy. She entrusted the policy with the agent for correction of the same. Later the policy was foreclosed by the insurer. Therefore, the complaint.

The complainant submitted that she was cheated by the agent and officers of the insurer. She is entitled to receive back the premium paid by her.

The insurer submitted that the policy was issued on the basis of the proposal form submitted by the complainant, as a regular premium one for 10 years. Due to non-payment of subsequent premium, the policy was lapse terminated and the eligible unitized fund value was paid to the complainant as per policy conditions.

Decision:- As reply to the complainant's letter dt. 24.10.2011 to the Grievance Cell of the insurer, vide their letter dt. 24.11.2011 & 01.12.2011 , they had committed to cancel the policy and return the premium paid. There is no reference regarding the allegations of mis-selling made by the complainant and they are not controverted also. Also there is no mention in the letters that they are ready to do the same as a gesture of goodwill. The stand taken by the insurer in these letters and in the SCN are contrary.There are sufficient circumstances to indicate that there was mis-selling of the policy. Silence maintained by the insurer in the reply letter to the Grievance Cell complaint would amount to implied admission of the allegations made. So, the policy issued is vitiated. It is liable to be cancelled. The complainant is entitled to get refund of entire premium paid by her. In the result, the complaint is disposed of with a direction to the insurer to cancel the policy and provide refund of premium paid, within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-889/2011-12

Mathew Jacob

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/10/2013-14 dated 07.05.2013

The complainant had taken a Unit Linked Pension Plus policy from the Respondent-Insurer in 2007 paying Rs. 2 lac.. He made payment of 2-3 instalments and thereafter no payment was made. The policy was closed by the insurer unilaterally and they sent a cheque for Rs. 144186/- in Jan. 2012. Therefore, the complaint.

The insurer submitted that the policy was issued as per the proposal form submitted and there was no request for free look period cancellation. The premium was reduced to Rs. 10000/- at the request of the complainant. He did not pay the 5th premium onwards and as the fund value fell below the minimum fund value to be maintained, the policy was cancelled and unitised fund value available was paid to the complainant as per Provision 5(iii)(d) of the policy conditions.

Decision:- Here policy was issued as requested by the complainant. Policy conditions form part of the policy and they govern the rights and liabilities of the parties to the contract of insurance. Premium was not paid for the due 21.12.2011. So as per Provision 5(iii)(a), the policy attained Paid-Up status. The minimum fund value to be maintained is shown in the policy as Rs. 2 lac. When the fund value fell below this limit, the policy was closed and available fund value was paid to the complainant as per Provision 5(iii)(d) of the policy conditions. The payment made is seen to be in conformity with the policy conditions. Even though there was substantial reduction in premium allowed by the insurer, the minimum fund value to be maintained was not reduced. If there was proportionate reduction in the minimum fund value to be maintained on account of substantial reduction in the annual premium, there would not have been chance or occasion for cancellation of the policy as per Provision 5(iii)(d). When all these circumstances are taken into consideration, this is a fit case where the complainant is entitled to Ex-gratia payment of Rs. 20000/-. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 20000/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-907/2011-12

V A Ambika

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/11/2013-14 dated 08.05.2013

The complainant had taken a policy from the Respondent-Insurer in 2008 paying Rs. 3 lac.. She made payment of 2 more instalments @Rs.10000/- and thereafter no payment was made. The policy was closed by the insurer unilaterally and they sent a cheque for Rs. 133000/-. Therefore, the complaint.

The complainant submitted that she was told that she need pay only 3 premiums. She is entitled to receive back atleast the premium paid by her.

The insurer submitted that the policy was issued on the basis of the proposal form submitted by the complainant, as a regular premium one for 14 years. Due to non-payment of subsequent reduced premium, the policy lapsed and as the fund value fell below the minimum fund value to be maintained, the policy was cancelled and unitised fund value available was paid to the complainant as per policy conditions.

Decision:- Here policy was issued as requested by the complainant. Policy conditions form part of the policy and they govern the rights and liabilities of the parties to the contract of insurance. 4th Premium was not paid . So as per Provision 5(iii)(a), the policy attained Paid-Up status. The minimum fund value to be maintained is shown in the policy as Rs.3 lac. When the fund value fell below this limit, the policy was closed and available fund value was paid to the complainant as per Provision 5(iii)(d) of the policy conditions. The payment made is seen to be in conformity with the policy conditions. Even though there was substantial reduction in premium allowed by the insurer, the minimum fund value to be maintained was not reduced. If there was proportionate reduction in the minimum fund value to be maintained on account of substantial reduction in the annual premium, there would not have been chance or occasion for cancellation of the policy as per Provision 5(iii)(d). The rigid attitude of the insurer in reducing the mini. fund value has resulted in substantial loss to the complainant. When all these circumstances are taken

into consideration, this is a fit case where the complainant is entitled to Ex-gratia. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 40000/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-004-903/2011-12

Badarudeen Rawther

Vs

ICICI Prudential Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/12/2013-14 dated 09.05.2013

The complainant had taken a policy from the Respondent-Insurer in 2008 paying Rs. 2 lac.. Due to financial problems no payment was made thereafter. The policy was closed by the insurer unilaterally and they sent a cheque for Rs. 35457/-. Therefore, the complaint.

The complainant submitted that the foreclosure was without his consent and he is entitled to receive back atleast the premium paid by him.

The insurer submitted that the policy was issued on the basis of the proposal form submitted by the complainant, as a regular premium one for 10 years. Due to non-payment of subsequent premiums, the policy lapsed and the policy was foreclosed as per Clause 4 of the policy conditions and 25% of the fund value available was paid to the complainant as per policy conditions

Decision:- Policy schedule reveals that the policy was issued strictly as per the request made by the complainant in the proposal form. Only first premium was paid by the complainant. So as per Clause 11 of the policy conditions, the policy was foreclosed and as per Clause 4, 25% of the available fund value was paid to the complainant. The payment made is seen to be in conformity with the policy conditions. So, the legality of the payment can not be challenged on merits. Here the complainant had suffered substantial loss. When all these circumstances are taken into consideration, this is a fit case where Ex-gratia payment can be ordered invoking Rule 18 of the RPG Rules. Ex-gratia payment Rs. 35000/-.would meet the ends of justice. In the result, the complaint is disposed of with a

direction to the insurer to pay Rs. 35000/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-007-902/2011-12

Badarudeen Rawther

Vs

Max Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/13/2013-14 dated 09.05.2013

The complainant had taken 2 policies from the Respondent-Insurer. He had paid Rs. 102500/- each in both policies Due to financial problems no payment was made thereafter. His request for cancellation of the policy was turned down by the insurer.. Therefore, the complaint.

The complainant submitted that he is entitled to receive back atleast the premium paid by him.

The insurer submitted that the policies were issued on the basis of the proposal forms submitted by the complainant, as regular premium one. Due to non-payment of 3rd premium onwards, the policies lapsed and there after terminated. As the complainant had not paid 3 full year's premiums, he is not entitled to surrender the policies and receive fund value.

Decision:- :- Only two year's premium was paid by the complainant in both the policies.. As per Clause 4.1 of the policy conditions, atleast 3 ATPs are to be paid for getting surrender value under the policies. The policy was terminated as per Clause 15.2(c). So,as per terms and conditions of the policy, the complainant is not entitled to receive back any amount from the insurer.. Here the complainant had suffered substantial loss whereas the insurer had gained sizable amount. When all these circumstances are taken into consideration, this is a fit case where Ex-gratia payment can be ordered invoking Rule 18 of the RPG Rules. Ex-gratia payment Rs. 35000/-each under the 2 policies.would meet

the ends of justice. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 35000/- each under the two policies on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-675/2012-13

C Gopakumar

Vs

LIC of India

AWARD No. IO/KCH/LI/14/2013-14 dated 10.05.2013

The complainant had taken Jeevan Mitra policy from the Respondent-Insurer for a sum assured of Rs. 5 lacs. The complainant met with a road traffic accident on 2.3.2001 and disabled. The insurer provided disability benefit on a monthly basis for 10 years for Rs. 5 lacs. Now his disability has increased and his request for enhancement of disability benefit was not acceded by the insurer. Therefore, the complaint.

The complainant submitted that he is entitled to get the disability benefit claim based on double the Sum Assured.

The insurer submitted that the benefit of double sum assured is available only for death occurring during the term of the policy. Only one sum assured is available for payment of Disability benefit and there is no provision for enhancing the benefit based on the increase in disability. The policy was surrendered by the complainant and he can not claim any further benefit under the policy.

Decision:- Policy conditions govern the rights and liabilities of the parties to the contract of insurance. The insured cannot claim anything more than what is covered by the insurance policy. Clause 10.2(a) deals with Disability benefit. It is stated that the amount available as Disability benefit is an additional sum equal to Sum Assured. Here the Sum Assured is Rs. 5 lacs. That amount has already been provided to the complainant. Double sum assured is not available for providing Disability benefit. The policy conditions do not provide for enhancement of the Disability benefit. The payment of future premiums was waived by the insurer as per policy conditions. The payment effected by the insurer is proper and strictly based on the policy conditions. Also the policy was surrendered by the

complainant subsequently. The payment of surrender value was also made in accordance with the policy conditions. So, the payments made by the insurer are in order. The complainant is not entitled to any relief. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/22-015-901/2011-12

V V Ashraf

Vs

Bharti AXA Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/15/2013-14 dated 10.05.2013

The complainant had taken a policy from the Respondent-Insurer. He was told that he can withdraw the money at any time without penality. When the policy was received, it was known that it was for an entirely different plan. He had been cheated by the insurer. Therefore, the complaint.

The complainant submitted that the policy was mis-sold to him and he is entitled to receive back at least the premium paid by him.

The insurer submitted that the policy was issued on the basis of the proposal form submitted by the complainant, as a regular premium one for 15 years. There was no request for free look period cancellation. Only 1st premium was paid and the policy is in lapsed status now. No element of mis-selling is involved in this case. The policy can not be cancelled.

Decision:- The policy issued to the complainant is in tune with the request made by him in the proposal form. The complainant did not make any request for cancellation of the policy within the free-look period. So, the inference that can be drawn is that he was satisfied with the policy received by him. When the complainant is making allegation regarding mis-selling, the entire burden is on him to substantiate that contention by adducing direct or circumstantial evidence. Here, he had not succeeded in establishing any circumstance which would point to mis-selling of the policy. As only the first premium was paid in the policy, as per Section 5 & 6 of the policy conditions, no paid-up value or surrender value is available under the policy. The complainant had failed to make out

the case of cancellation of the policy and refund of premium. He is not entitled to any relief. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-003-936/2011-12

V Anirudhan

Vs

TATA AIA Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/17/2013-14 dated 14.05.2013

The complainant had taken a Health Protector policy from the Respondent-Insurer. He suffered chest pain and underwent Angioplasty. His claim for Critical Illness Benefit was repudiated by the insurer. Therefore, the complaint.

The complainant submitted that Heart Attack is a Critical Illness covered under the policy and the repudiation of the claim is without any basis.

The insurer submitted that though the complainant suffered Heart Attack, it did not qualify the three conditions mentioned in the policy conditions in relation to Heart Attack. Also the procedure underwent does not entitle payment of Critical Illness Benefit. The claim was rightly repudiated based on policy conditions.

Decision:- The discharge summary shows the diagnosis as Coronary Artery Disease-Effort Angina-single vessel disease and Angioplasty was done. As per policy conditions Item no. 3, three conditions has to co-exist to attract Critical Illness Benefit for Heart Attack. Here only 1st condition was satisfied. So, the heart attack suffered by the complainant had not satisfied the 2nd & 3rd conditions. So, the heart attack suffered by the complainant is not a Heart attack as envisaged under the policy. Under item no. 4, Angioplasty is specifically excluded. Therefore, the complainant is not entitled to claim Critical Illness Benefit either under Item no. 3 or item no. 4 of the list of Critical Illnesses. The conclusion is that repudiation of the claim by the insurer is based on the policy conditions. In the result, the complaint is dismissed. No cost

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-003-917/2011-12

Joji Thomas

Vs

TATA AIA Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/18/2013-14 dated 14.05.2013

The complainant had taken Assure Golden Years policy from the Respondent-Insurer believing that only 3 years premium needs to be paid . He paid 7 semi-annual premiums and when he approached the insurer for closing the policy , he was informed that nothing was payable now. Therefore, the complaint.

The insurer submitted that the policy was issued on the basis of the proposal form submitted by the complainant. Complainant did not pay premiums from the 7th due onwards and the policy lapsed. As the policy is not in effect, the complainant is not entitled to receive any amount in the policy. He can revive the policy and continue to pay the premiums.

Decision:- In the premium payment notice as well as lapse notice produced by the insurer, the premium due date is noted as 30.11.2011 and lapse date as 31.12.2011. That would indicate that the complainant had paid eight semi-annual premiums in the policy. The complainant is seeking return of premiums paid by him. But he had not alleged and established any of the circumstances which would vitiate a contract. So, he is not entitled to receive back the entire premium paid by him. In this case, as the complainant had paid premiums for more than 3 years, he is entitled to receive Guaranteed Surrender Value. The insurer can not deny the same to the complainant by stating that the policy is in a lapsed stage. In the result, the complaint is disposed of with a direction to the insurer to provide Guaranteed Surrender Value to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of filing of the complaint till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-911/2011-12

P K Subramania Pillai

Vs

LIC of India

AWARD No. IO/KCH/LI/16/2013-14 dated 13.05.2013

The complainant is a beneficiary under the annuity policy issued by the Respondent-Insurer in favour of M/s Western India Plywoods Ltd. He superannuated from service on 16.07.1996. In 2011, the insurer informed him that his monthly annuity is Rs. 1308/- w.e.f. 16.07.1996. The complainant seeked return of capital amount along with actual interest. There was no response from the insurer. Therefore, the complaint.

The insurer submitted that the complainant is only a beneficiary under the Superannuation Scheme. The trustees informed the insurer to purchase Annuity only in 2010. As the vesting date was in 1996, the complainant was provided annuity arrears for the period from 16.07.1996 to 16.10.2010. Corpus can be returned to the annuitant only on certain contingencies. In that case also the complainant is entitled to receive only the corpus amount of Rs. 130857/-. He is not entitled to any more amount.

Decision:- The complainant is seeking relief above the pecuniary limit of this forum. Also he has filed a complaint in the State CDRF on the same subject matter. So, the complaint is not maintainable in this forum on the above 2 counts.

As per the Rules governing the Group Superannuation scheme entered into by the Trustees of the Co., the annuity is payable from the date of retirement. In this case the retirement date and option was intimated to the insurer by the Trustees only in 2010. The insurer paid the annuity arrears from 1996 onwards and the corpus is returnable only on death of the annuitant. Also the calculation of interest shown in the complaint letter is whimsical and not arithamatically correct. In view of these facts, the relief sought by the complainant can not be allowed. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/22-022-937/2011-12

M Ouseph Babu

Vs

Star Union Dai Ichi Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/20/2013-14 dated 21.05.2013

The complainant had taken Dhruv Tara Pure Pension policy from the Respondent-Insurer with yearly premium of Rs. 60000/- payable monthly. Later he was informed that he has to pay monthly premium of Rs. 15000/- instead of Rs. 5000/-. His requests for rectification was not successful. Therefore, the complaint.

The complainant submitted that the policy issued to him was not the one he applied for. So, the policy is to be cancelled and he may be paid the entire amount paid with interest.

The insurer submitted that they had collected Rs. 15000/- each in the 1st three months and thereafter the policy was lapsed due to non-payment of further premium. There was no request for cancellation during the free look period.

Decision:-The proposal reveals that the complainant had applied for a policy with yearly premium of Rs. 60000/- payable monthly. So, the monthly premium will be Rs. 5000/-. But the insurer had issued the policy with monthly premium of Rs. 15000/- . So, the policy issued to the complainant by the insurer is not the policy applied for by him. There was no action from the side of the insurer to correct this mistake. But they made the policy lapsed also which is another lapse on their part. There are sufficient grounds for cancellation of the policy. In the result, the impunged policy is cancelled. The insurer is directed to return Rs. 60000/- with 9% interest from the date of commencement of the policy till the date of award to the complainant within the prescribed period failing which the amount shall carry further interest at 9% per annum from the date of award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-009-925/2011-12

K Sekharan Nair

Vs

Bajaj Allianz Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/21/2013-14 dated 21.05.2013

The complainant had taken a policy from the Respondent-Insurer in 2006 and the same matured on 28.03.2011. When he approached the insurer , it was told that pension only will be paid . Therefore, the complaint.

The complainant submitted that, had the insurer informed him the date of maturity in advance , he would have surrendered the policy. He is not interested to get pension. He is entitled to get back the maturity amount.

The insurer submitted that after the date of vesting only pension can be given. The complainant did not tender any request for surrender before the vesting date. He has not given option for pension also. So, the fund value is lying idle.

Decision:- There is no reliable evidence to show that maturity intimations were sent to the complainant before maturity of the policy. Complainant has submitted that he had not received any intimation from the insurer in advance. So, surrender option was denied to the insured by not forwarding the maturity intimation. As per section 3, surrender value will be equal to the value of units . Here the statement shows the unit value as on 28.03.2011 as Rs. 68933.94. In the nature of the evidence and circumstances available in the complaint, there is no reason not to allow the complainant to receive the surrender value. In the result, an award is passed directing the insurer to pay an amount of Rs. 68933.94 towards surrender value to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/22-009-910/2011-12

Bipi Mohan

Vs

Bajaj Allianz Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/22/2013-14 dated 24.05.2013

The complainant had applied for a pension policy from the Respondent-Insurer paying Rs. 2 lacs. On receipt of the policy it was revealed that his signatures were forged in the proposal form and a different policy was issued to him. His request for cancellation of policy was not acceded by the insurer. Therefore, the complaint.

The complainant submitted that the agent and Officer of the insurer played fraud on him. The policy is vitiated. He is entitled to cancellation and refund of premium.

The insurer submitted that the policy was issued as per the proposal form submitted by the complainant and no request for cancellation was received during the free look period. The allegations of fraud and forgery were raised after 6 months from the date of receipt of the policy. On comparison of the disputed signatures with the earlier ones, no notable discrepancy was found.

Decision:- The policy is issued strictly as per the request made in the proposal form. As regards the allegation of forgery of signature in the proposal form, on a close observation of the disputed signatures and admitted signatures , it is seen that both tally in almost all material particulars. So, the available evidence is not sufficient to conclude forgery of signatures, in the proposal form submitted before the insurer. No proper explanation is given as to why he had entrusted the policy again with the same persons who were alleged to have done forgery. This itself cast a doubt as to the genuineness of the allegation raised. There is no acceptable explanation as to why there was so much delay in approaching the insurer for cancellation of the policy. Also no criminal complaint was lodged against the persons who are alleged to have done forgery and fraud. The complainant had not attributed any motive for replacing original proposal with a forged one. In the proposal as well as the payment authorization letter by father, the policy is shown as 'Unitgain Protection Plus II'. The complainant had not succeeded in establishing any circumstance which would vitiate the policy issued warranting its cancellation. So, the complainant is not entitled to any relief in the complaint. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-943/2011-12

C Padmajan

Vs

LIC of India

AWARD No. IO/KCH/LI/24/2013-14 dated 31.05.2013

The complainant had taken Asha Deep policy from the Respondent-Insurer. He underwent surgery for Heart Valve replacement on 31.03.2006. As there was delay in getting the documents, the claim could be submitted only on 02.03.2010. The insurer had not taken any decision on his claim. Therefore, the complaint.

The complainant submitted that the ECHO Report sought by the insurer is unavailable. He is entitled to get Critical Illness Benefit under the policy.

The insurer submitted that there was inordinate delay in submission of claim. The complainant had not produced the ECHO report sought by the Zonal Office. The claim is pending decision.

Decision:- When the hospitalization and the course of treatment including surgery are admitted by the insurer, the delay caused in making the claim does not assume much importance. In the case summary and Discharge Record from hospital, there is mention regarding the results of ECG and ECHO taken prior to surgery and also after the surgery. The substance of ECG and ECHO are available in the discharge record. Though ECHO report is not available, sufficient material is available in the discharge record which would enable the insurer to consider the merit of the claim submitted by the complainant. In the result, the complaint is disposed of with a direction that the Zonal Office of the insurer shall consider and dispose of the claim on merits within a reasonable period, but not later than 3 months from the date of receipt of the award. In case the decision goes against the complainant, his right to challenge the decision before this Forum is reserved. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-018-900/2011-12

Sanju Varghese

Vs

IDBI Federal Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/25/2013-14 dated 31.05.2013

The complainant had taken Wealthassurance Foundation Plan policy from the Respondent-Insurer in 2008. The A/c from which he has remitted the premium was subsequently closed. He submitted an application for surrender in 2011 furnishing his A/c details with SBT. The insurer credited his surrender value to one A/c in the name of M/s R.K. Apparels were the complainant was a Director previously. He pointed out the mistake to the insurer. But there was no rectification. Therefore, the complaint.

The complainant submitted that the insurer can not contend that they have discharged their obligation by depositing the surrender value in an account which is not owned by the complainant.

The insurer submitted that in the surrender application submitted by the complainant, he had not mentioned the account details in the column provided for the same. So, naturally, the surrender value was credited in the account of the complainant, the details of which was provided in the KYC certificate which forms part of the proposal form. They are not liable to pay the surrender value again.

Decision:- The insurer had deposited the surrender value payable to the complainant in the account, details of which were provided by the complainant by way of KYC Certificate issued by the bank, as the complainant had not provided details of any other bank account in his name either along with the surrender application or prior to that. The complainant had taken initiative to inform details of his 2nd bank account only after 21.11.2011. So, the insurer was left with the only option to remit the proceeds of surrender in the A/c, which was provided by the complainant in the proposal form. By doing so the insurer had discharged their obligation. Now, it is up to the complainant to take suitable legal action to retrieve the amount if the A/c is not maintained by him. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-007-832/2011-12

S Prem

Vs

Max Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/26/2013-14 dated 05.06.2013

The complainant had taken Life Maker Investment policy from the Respondent-Insurer in 2007 with annual premium of Rs. 15000/-. He paid the 3rd premium in advance along with the 2nd due in 2008. Later he received communication that policy is lapsed due to non-payment of 3rd premium. He is deaf and dumb and not able to hear the words of the Officers of the insurer.. He is entitled to get back the premiums paid by him. Therefore, the complaint.

The complainant submitted that he received Rs. 9499.80 in 2008 and another Rs. 12913/- in 2013.

The insurer submitted that as the 3rd premium was not due in 2008 part of the amount was appropriated towards top-up premium and the balance Rs. 9499.80 was refunded to the complainant. The policy was lapsed due to non-payment of premium due in 2009.

Decision:- The evidence in this case is to the effect that the complainant had paid an amount of Rs. 15000/- in Nov. 2008 towards 3rd premium due in 2009.But the insurer arbitrarily appropriated a portion of the premium paid, towards top-up premium. This arbitrary action of the insurer is not supported by any policy conditions. In this case the insurer has acted unfairly. The omissions or commissions on the part of the insurer are devoid of good faith. The insured is entitled to rescind the contract of insurance and therefore, he is entitled to receive back the premium paid by him. In the result, an award is passed directing the insurer to refund Rs.30000/- with cost of Rs. 2000/- to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-004-082/2013-14

V S Dileep Kumar

Vs

ICICI Prudential Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/27/2013-14 dated 05.06.2013

The complainant and his wife had taken Invest Shield Cash Back policy from the Respondent-Insurer. They paid 3 premiums of Rs. 25000/- each under the two policies and could not pay further premiums due to financial stringency. They requested the insurer to return the premium paid, which was refused. The complainant approached the Grievance Cell and received a reply e-mail dated 08.08.2011 expressing their inability to make refund. Thereafter he filed a complaint before this forum on 19.04.2013.

Decision:- As per Rule 13 (3)(a) & (b) of RPG Rules, as the present complaint is filed before this Forum on 19.04.2013, beyond one year from 08.08.2011, the complaint is barred by limitation. In the result, the complaint is dismissed as barred by limitation.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-951& 952/2011-12

A S Stuwart

Vs

LIC of India

AWARD No. IO/KCH/LI/28/2013-14 dated 07.06.2013

The complainant had taken 2 policies from the Respondent –Insurer in 2008 and 2010. He was involved in a major road traffic accident while driving a KSRTC bus and his right leg was amputated above knee. He is permanently disabled. The insurer denied the Double accident benefit under the policies. Therefore, the complaint.

The complainant submitted that he is totally and permanently disabled. Therefore, he is entitled to the disability benefits provided under the policies.

The insurer submitted that as per FIR, the accident took place due to the negligence of the complainant. The disability suffered by the complainant is not total and permanent and he is even now employed and is earning income inspite of his disability. The repudiation is legal and based on policy conditions.

Decision:- There is no positive evidence that the complainant had committed breach of law and on account of that , the accident occurred, resulting in amputation of right leg of the complainant. Also this not taken as a ground while repudiating the claim. In none of the Disability certificates , it is stated that the disability is total and the percentage of disability relates to the whole body. As per policy Clause 10.4, in order to get disability benefit , the disability must be total and permanent and such that there is neither then nor at any time thereafter any work, occupation or profession that the LA can ever sufficiently do or follow to earn any wages, compensation or profit. So, the disability must be such that the LA will not be able to do any work to earn his livelihood. But the complainant still continues to be an employee of KSRTC and is earning wages. So, the disability is not total as defined in Clause 10(4) of the policy conditions. So, the repudiation of the claims seeking Disability Benefit under the policies is legal and in tune with policy conditions. In the result the complaints are dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-951& 952/2011-12

A S Stuwart

Vs

LIC of India

AWARD No. IO/KCH/LI/28/2013-14 dated 07.06.2013

The complainant had taken 2 policies from the Respondent –Insurer in 2008 and 2010. He was involved in a major road traffic accident while driving a KSRTC bus and his right leg was amputated above knee. He is permanently disabled. The insurer denied the Double accident benefit under the policies. Therefore, the complaint.

The complainant submitted that he is totally and permanently disabled. Therefore, he is entitled to the disability benefits provided under the policies.

The insurer submitted that as per FIR, the accident took place due to the negligence of the complainant. The disability suffered by the complainant is not total and permanent and he is even now employed and is earning income inspite of his disability. The repudiation is legal and based on policy conditions.

Decision:- There is no positive evidence that the complainant had committed breach of law and on account of that , the accident occurred, resulting in amputation of right leg of the complainant. Also this not taken as a ground while repudiating the claim. In none of the Disability certificates , it is stated that the disability is total and the percentage of disability relates to the whole body. As per policy Clause 10.4, in order to get disability benefit , the disability must be total and permanent and such that there is neither then nor at any time thereafter any work, occupation or profession that the LA can ever sufficiently do or follow to earn any wages, compensation or profit. So, the disability must be such that the LA will not be able to do any work to earn his livelihood. But the complainant still continues to be an employee of KSRTC and is earning wages. So, the disability is not total as defined in Clause 10(4) of the policy conditions. So, the repudiation of the claims seeking Disability Benefit under the policies is legal and in tune with policy conditions. In the result the complaints are dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-957/2011-12

M U Hairunissa

Vs

LIC of India

AWARD No. IO/KCH/LI/30/2013-14 dated 07.06.2013

The husband of the complainant had 2 policies with the Respondent- Insurer. He died in a road traffic accident while riding a motorcycle. The insurer denied Double Accident Benefit on the ground that the death of the life assured occurred while he was under the influence of intoxicating liquor. Therefore, the complaint.

The complainant submitted that there is no trace of evidence that the life assured was under the influence of alcohol while riding the motorcycle. The repudiation of the claim is not legal and proper and is against the policy conditions.

The insurer submitted that the Chemical Analysis Report relating to the blood sample of the deceased L.A. would reveal that he had consumed alcohol and was under it's influence while riding the motor cycle. The repudiation of the claim was strictly based on policy conditions and evidence available.

Decision:- A person can be said to be under the influence of alcohol, when he is not able to control himself on account of consumption of alcohol. Here the burden of proof is on the insurer to prove the same by adducing reliable evidence. Consumption of alcohol need not necessarily lead to a situation where the person is 'Under the influence of Alcohol'. In the police Final report it is mentioned that the driver of the bus alone is guilty of the offence. The evidence is sufficient to enter a finding that the L.A. was riding the motor cycle diligently and obeying the road rules. So, there is complete lack of evidence that the accident took place whilst the L.A. was under the influence of alcohol and he had contributed for the accident. In the result, an award is passed directing the insurer to provide death benefit provided under Clause 10(b) of the policy conditions in the 1st policy and the 2nd policy to the respective nominee/ appointee within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of complaint till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/22-001-961/2011-12

E A Varghese

Vs

LIC of India

AWARD No. IO/KCH/LI/31/2013-14 dated 10.06.2013

The complainant had submitted a proposal form for taking Samridhi Plus policy from the Respondent-Insurer by paying Rs. 150000/-. He did not receive the policy documents and on 16.08.2011, he was asked to undergo certain medical examinations which he complied. Again on 02.01.2012, he was asked to undergo TMT, which he refused and demanded his money back with interest. There was no positive response. Therefore, the complaint.

The complainant submitted that the insurer had deducted Rs. 852.30 towards risk premium without issuing the policy. He is entitled to receive interest on the premium amount from the date of payment till the cheque was issued.

The insurer submitted that deduction of risk premium is authorized as life cover was provided till 23.07.2011. Interest was paid for the period 23.07.2011 to 12.03.2012.They had acted legally and in accordance with the policy conditions.

Decision:- The complainant was kept in the dark as to the fate of the proposal form and the premium paid by him. FPR was issued and the risk cover was provided by mistake on the part of the insurer. The complainant /insured can not be the casuality of the mistake of the insurer. So, the complainant is entitled to get refund of Rs. 852.30 deducted by the insurer towards risk premium. The entitlement of the insured to receive refund of premium is admitted by the insurer by their subsequent conduct of sending cheque for Rs. 149088/-. In view of the circumstances of the case, he is entitled to interest and also cost. In the result, an award is passed directing the insurer to refund Rs. 852.30 deducted by them towards risk premium and to pay interest on the premium paid at 10.5% from 18.04.2011 to 12.03.2012 with cost of Rs. 1000/- within the prescribed period failing which the amount shall carry further interest at 9% per annum from the date of award till the payment is effected.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-008-956/2011-12

Leela

Vs

Kotak Mahindra Old Mutual Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/32/2013-14 dated 12.06.2013

The complainant had taken Money back policy from the Respondent-Insurer paying Rs. 20000/- . He could not make payment of further premium. His request for surrender of the policy and return of premium on medical ground was not acceded by the insurer. Therefore, the complaint.

The complainant who is the wife of the original complainant was impleaded in the complaint due to death of her husband.

The insurer submitted that the policy was issued for 15 years as requested by the complainant in the proposal form. On account of non-payment of 2nd year premium onwards, the policy was lapsed. Life assured died while the policy was in a lapsed condition . The policy had not acquired surrender value as premiums for 3 policy years had not been paid. So, the nominee is not entitled to any benefit under the policy.

Decision:- As per Clause 2 of the policy conditions, the policy was lapsed due to non-payment of subsequent premiums. As per Clause 9, in order to acquire guaranteed surrender value at least 3 year's premium has to be paid. The life assured had paid only the first premium. So, the complainant who is the nominee of the deceased L.A. is not entitled to the relief sought by her as per the policy conditions. Medical records reveal that the L.A. was suffering from chronic kidney disease and died on 13.10.2012. Though the complainant is not legally entitled to any amount as per the policy conditions, I am satisfied that the complainant had succeeded in establishing circumstances which call for application of Rule 18 of RPG Rules. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 7500/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-1017/2011-12

Monica Esmy Duran

Vs

Aviva Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/33/2013-14 dated 14.06.2013

The complainant had taken Life Bond 5 policy from the Respondent-Insurer making one time payment of Rs. 50000/-. When she contacted the insurer after 5 years, it was told that the policy had been closed and she is not entitled to get the refund amount. Therefore, the complaint.

The complainant submitted that she had taken the policy on the understanding that it was a single premium one. She never wanted a half-yearly payment policy. She is entitled to get refund of premium or surrender value.

The insurer submitted that the policy was issued as per the proposal form submitted, with half-yearly premium of Rs. 50000/- . Due to non-payment of subsequent premiums, the policy lapsed and as one full year's premium was not paid , it had not acquired surrender value. Nothing is payable now.

Decision:- In the proposal form the column relating to annual premium is filled as Rs. 50000/-. It is suffixed by 'Hly' and no sign or initial to authorize the same is present. This would only indicate that the annual premium is Rs. 50000/- and the frequency of payment is half-yearly. In the instant case the entire annual premium was paid in a lump in advance. There is no evidence available to substantiate the contention of the complainant that she had applied for a single premium policy. Based on the contents of the proposal form, the insurer can no more contend that the complainant had not paid full premium for the first year of the policy. As per Article 11.1 of the policy conditions, the insured is entitled to surrender value after payment of premium for the first policy year. As per Article 11.1.1, the amount payable is the value of all initial units at their unit price, less the early Redemption Charge as per Article 2. The fund value available as on 25.06.2005 was Rs. 55438/- In the result, the complaint is disposed of with a direction to the insurer to pay such amount after deducting the Early Redemption Charge from the initial unit value of Rs. 55438/- to the complainant within the prescribed period failing which the amount

shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-986/2011-12

Janardhanan Attoor

Vs

Aviva Life Ins. Co. Ltd

AWARD No. IO/KCH/LI/34/2013-14 dated 14.06.2013

The complainant had taken Pension Plus Unit Linked policy from the Respondent-Insurer in 2008 by paying Rs. 50000/-and believing it to be a single premium one. His request to the insurer for refund of the premium paid was not fruitful. Hence, the complaint.

The complainant submitted that there was no communication from the insurer regarding lapsation of the policy. He had been cheated and defrauded by the insurer. The contract of insurance is vitiated and he is entitled to refund of the premium.

The insurer submitted that the policy was issued strictly based on the contents of the proposal form. There was no request for free look period cancellation. The first complaint was made after 3 years. The allegations made are without any basis. There is no ground for cancellation of the policy and refund of premium.

Decision:- It is seen that the policy was issued as applied for by the complainant in the proposal form. There was no request for free look period cancellation also. There is no piece of evidence to support the contention of the complainant that he actually applied for a single premium policy and had been issued with a regular premium policy. So, there is no ground for cancellation of the policy. As only first year premium was paid, as per Article 6(a) no surrender value had acquired in the policy. As there was no revival within the revival period of 2 years, the policy was terminated on 31.03.2011. The fund value available as on that date was Rs. 51462/-. As per policy conditions , the complainant is not entitled to any amount under the policy. This creates an unhappy situation. Rule 18 empowers Insurance Ombudsman to order Ex-gratia payment in appropriate cases in order to meet the ends of justice. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 25000/- on Ex-gratia basis to the complainant within

the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-003-970/2011-12

M Rajeev

Vs

TATA AIA Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/38/2013-14 dated 25.06.2013

The wife of the complainant had taken Mahalife Gold policy from the Respondent-Insurer in Sept. 2008 in the name of her son. She died on 16.09.2010. Due to financial difficulties , the complainant could not continue the policy. His request for refund of premium paid was not fruitful. Therefore, the complaint.

The complainant submitted that nine quarterly premiums were paid by him. As he is unable to continue the policy, he is entitled to get refund of premium paid.

The insurer submitted that as per the proposal form, the complainant is the contingent policyholder. He did not pay the further premiums and the policy lapsed. No surrender value has been acquired, as 3 years premium was not paid. Nothing is payable now.

Decision:- It is seen that the policy is issued in tune with the request made by the proposer in the proposal form. Due to non-payment of premium , the policy lapsed. As per the policy conditions, to acquire guaranteed surrender value, at least 3 year's premiums have to be paid. Admittedly, here only 9 quarterly premiums were paid So, the policy did not acquire GSV. So, the complainant is not entitled to demand either refund of premiums paid or guaranteed surrender value. The policyholder had paid a total amount of Rs. 56331/- towards premium excluding service tax and she died. So, here is a situation which calls for some kind of solace to the complainant who is the contingent policy holder. On consideration of the entire facts and circumstances available in the complaint, I am satisfied that this is a fit case where Rule 18 of RPG Rules can be invoked so as to provide ex-gratia payment to the complainant. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 25000/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-011-1004/2011-12

Padmini Sekhar

Vs

ING Vysya Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/39/2013-14 dated 26.06.2013

The complainant had taken two Best Years Retirement Plan policies from the Respondent-Insurer. She was under the belief that these were single premium policies and she can withdraw the amounts after one year. When she approached the insurer for return of amount after one year, there was no positive response. Therefore, the complaint.

The complainant submitted that she paid Rs. 40000/- and Rs. 50000/- respectively under the two policies. The insurer had played fraud on her and she is entitled to get refund of the premium with interest and bonus.

The insurer submitted that as per the applications made by the complainant in 2010 and 2011, the two policies were issued as regular premium policies. The complainant had undertaken to pay further premiums @Rs. 12000/- per year. Also there was no request for free look cancellation. As per Clause 3.10 of the policy conditions, she can surrender the policies on completion of atleast 3 years. No element of fraud is involved in the issuance of the policies.

Decision:- The contents of the policy schedules would reveal that they had been issued in consonance with the request made by the complainant in the proposal forms. The complainant had not opted for cancellation of the policies within the free look period. When there is allegation of mis-selling, the burden is entirely on the complainant to establish the same. The complainant had miserably failed to make out any circumstance which would vitiate the policies issued to her. As there was no request for free look period cancellation and the complainant had failed to establish the allegation of mis-selling, she is not entitled to refund of the premiums as prayed for in the complaint. As per Clause 3.10, the policy can be surrendered after 3 years. In the result, the complaint is disposed of with the observation that if the complainant so desires, she can surrender the policies after 3 years. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-003-990/2011-12

A K Abdulla

Vs

TATA AIA Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/40/2013-14 dated 26.06.2013

The complainant had taken a policy from the Respondent-Insurer . Now it is learnt that he has to pay premium for 15 years @Rs. 15000/- yearly. As he is not in a position to pay the premiums for 15 years, he requested for cancellation of the policy which the insurer did not respond. Therefore, complaint.

The complainant submitted that at the time of taking the policy he was told that he has to pay premiums for only 3 years. His request for correction in the policy was not acceded to by the insurer. So, he demanded cancellation of the policy and refund of premium.

The insurer submitted that the policy was issued as applied for by the complainant. Due to non-payment of subsequent premiums, the policy lapsed and now he is not entitled to refund of premium.

Decision:- It is seen that the policy is issued as per the proposal form submitted by the complainant. The complainant had not opted for cancellation of the policy within the free look period. The complainant could not make out any ground which would vitiate the policy received by him. In such a situation, the request for closure of the policy can not be allowed. As per the policy conditions, to acquire guaranteed surrender value, at least 3 year's premiums have to be paid. Admittedly, here only initial premium was paid So, the policy did not acquire GSV. As the policy is not vitiated , the complainant is not entitled to refund of premium also. So, as per the policy conditions , the complainant is not entitled to any relief in the complaint. But the complainant had made out a satisfactory case for invoking Rule 18 of the RPG Rules. It empowers the Insurance Ombudsman to award ex-gratia payments in appropriate cases. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 5000/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-004-991/2011-12

M M George

Vs

ICICI Prudential Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/41/2013-14 dated 27.06.2013

The complainant had taken a policy from the Respondent-Insurer paying Rs. 1 lac. When he surrendered the policy , the amount received was much below the invested amount. He had been cheated by the insurer. Hence, the complaint.

The complainant submitted that he was offered the policy with the assurance that there will be substantial growth after 3 years. He was told only the advantages of the policy and the disadvantages were never told. When surrendered the policy after 3 years, he received only Rs. 78236/-. Even the invested amount was not given back.

The insurer submitted that the policy was taken by the complainant after fully understanding the risk factors. Due to poor stock market, the fund value was diminished at the time of surrender. Eligible surrender value as per policy conditions was paid to him.

Decision:- Surrender of the policy was allowed as per Clause 2.2 of the policy conditions. Though the complainant had contended that he had been cheated by the insurer, there is no evidence or circumstance which would substantiate his contention. The rights and liabilities of the insured as well as the insurer are governed by the policy conditions. Admittedly, the policy taken by the complainant is a unit linked one. Poor performance of the market had reflected in the fund value and that in turn reflected in the surrender value. The insurer has no control over this. The surrender value paid to the complainant is in accordance with the policy conditions and the statement of account. So, the payment of the surrender value is in order. There is no ground or reason to interfere. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/GI/11-017-974/2011-12

Dr. Sherry Issac

Vs

Star Health & Allied Insurance Co. Ltd

AWARD No. IO/KCH/GI/61/2013-14dated 28.06.2013

The complainant had taken Family Health Optima policy from the Respondent-Insurer covering himself and his family members. His son was involved in a road traffic accident and underwent surgery for Glenoid fossa fracture of the shoulder. The claim for the same was repudiated by the insurer on the ground that it was a pre-existing condition. Therefore, the complaint.

The complainant submitted that his son suffered the injury only in the accident which took place on 28.05.2011. Prior to that, he had not suffered any injury and had not taken any treatment. The repudiation of the claim is illegal and against the policy conditions.

The insurer submitted that as per the expert opinion received by them, the fracture occurred at least 6 months to 1 year prior to hospitalization. So, the injury for which treatment was taken is a pre-existing condition and so, the claim was rightly repudiated.

Decision:- When the insurer repudiates a claim on the ground that it is a pre-existing ailment, the burden is on them to establish that fact. Discharge summary and attending doctor's report shows the diagnosis as "Traumatic recurrent anterior dislocation and anterior glenoid fracture-right shoulder". In the history portion , the duration of the ailment is shown as 3 weeks. Also the chance of being a pre-existing ailment, is ruled out in the medical report. The word 'recurrent' means returning at intervals. Recurrency has nothing to do with the age of the injury. The opinions rendered by the experts differ, in the age of the injury and they have only seen or verified the documents The expertise of the treating doctor who has first hand knowledge of the case is not doubted or questioned by the insurer. The contents of the discharge summary fully support the case of the complainant that his son suffered the injury in a road traffic accident on 28.05.2011.There is also no evidence of consultation or treatment prior to 28.05.2011 in connection with the injury suffered. Therefore, the repudiation of the claim as pre-existing is not sustainable. . In the result, an award is passed directing the insurer to pay

an amount of Rs. 117814/- to the complainant with cost of Rs. 2000/- within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-009-1002/2011-12

P G Varghese

Vs

Bajaj Allianz Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/42/2013-14 dated 28.06.2013

The complainant had taken a policy from the Respondent-Insurer in 2006 and the same matured on completion of the term of 5 years. When he approached the insurer , it was told that pension only will be paid . Therefore, the complaint.

The complainant submitted that he was given assurance that on maturity he will get the entire fund value. He is not interested to get pension. He is entitled to get back the maturity amount.

The insurer submitted that the policy issued was under pension plan and after the date of vesting only pension can be given. The complainant did not tender any request for surrender before the vesting date. Now he can only opt either of the options mentioned in Section 3(b) of the policy conditions. He has not given option for pension so far..

Decision:- Section 1 of the policy conditions provides definitions of "Maturity date and Vesting Date". As different definitions are given for these two, essentially they are different and separate. In the policy schedule only Maturity date is given and the Vesting date is kept blank. There is no reliable evidence to show that maturity intimations were sent to the complainant. Complainant has submitted that he had not received any intimation from the insurer.. So, the valuable right provided under the policy conditions for exercising the options provided was denied to the insured by not forwarding the maturity intimation. As the policy does not mention a vesting date, the complainant is entitled to the fund value on maturity. The request made by the complainant on 08.02.2012, for all practical purposes, can be treated as a request for surrender of the policy as under Section 28 (c) of the policy conditions. As per this section, there is no surrender charge in the 6th policy year.. The account statement shows the fund value as on

28.09.2011 as Rs. 466168.12. The insurer is liable to pay this amount to the complainant as fund value. In the result, an award is passed directing the insurer to pay an amount of Rs. 466168.12 to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-1020/2011-12

T B Ramanan

Vs

LIC of India

AWARD No. IO/KCH/LI/43/2013-14 dated 04.07.2013

The complainant had taken a Health Plus policy from the Respondent-Insurer. He fell from a bike on 25.11.2009 and suffered spinal cord injury. He was admitted at Indo-American Hospital, Vaikom and underwent major surgery. He submitted a claim for HCB and Major Surgical Benefit. The insurer settled the HCB partially and repudiated the MSB claim. Therefore, the complaint.

The complainant submitted that the hospitalization from 11.12.2009 to 07.01.2010 was not for physiotherapy alone. In fact he was in the ICU for 8 days and that was also not considered by the insurer. He is entitled to full HCB and MSB.

The insurer submitted that the surgery underwent is not a listed surgery and therefore, MSB is not payable. As the 2nd admission was merely for physiotherapy, HCB is not payable for that period as per the policy conditions.

Decision:- The first Discharge summary shows the diagnosis as T12 fracture with paraplegia. He underwent surgery. It is also specifically noted that 'Rehabilitative measures were given'. In the 2nd Discharge summary it is noted that " this 50 year old gentleman was readmitted for continuation of rehabilitation for spinal cord injury". He was treated with rehabilitative measures including Physiotherapy. The contents of the Discharge summaries would reveal that he was transferred from one department to another in the same hospital for continuation of treatment. The surgery underwent by the

complainant is not included in the 49 surgeries provided in the policy. So, he is not entitled to MSB under the policy. The medical documents do not reveal admission in the ICU for 8 days. As per exclusion Clause 6(1)(xvi), HCB is not payable if the hospitalization is for the sole purpose of physiotherapy. Available medical evidence would reveal that when he was transferred to Rehabilitation Dept., he had loss of sensation below inguinal region and he was paraplegic. So, the medical evidence is to the effect that the 2nd admission was not merely for physiotherapy. So, the exclusion Clause is not at all attracted. So, he is entitled to HCB for the remaining 26 days also. In the result, an award is passed directing the insurer to pay a further amount of Rs. 27300/- to the complainant with cost of Rs. 2000/- within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-1026/2011-12

Mary Thomas

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/44/2013-14 dated 16.07.2013

The complainant had taken Life Long Unit Linked policy from the Respondent-Insurer in 2006. She was told that she would get a huge amount after 5 years.She paid 3 annual premiums of Rs. 30000/- and when approached for surrender , it was told that the surrender value available is very meager She had been cheated by the insurer and hence, the complaint.

The insurer submitted that the complainant submitted the proposal form after understanding all the features and conditions of the policy. There was no request for cancellation of the policy within the free look period. The complainant submitted a request for surrender of the policy and the same was allowed and Rs. 38802/- was paid towards surrender value . Nothing more is payable now.

Decision:- In the complaint filed by the complainant, there is no allegation of mis-selling of the policy. The present complaint is for return of premium paid. When the complaint was pending before this Forum, the complainant had made a surrender request and received the surrender value. From the documents produced before this Forum, it is seen that the surrender value is settled as per the policy conditions and is in order. The adequacy or otherwise of the surrender value received by the complainant is not

questioned before this Forum. On merits, the complainant is not entitled to any further amount towards surrender value. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-011-003/2012-13

Sumalakshmy

Vs

ING Vysya Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/46/2013-14 dated 17.07.2013

The complainant had taken UL-High Life policy from the Respondent-Insurer in 2008.She paid 3 annual premiums of Rs. 50000/- each. She submitted a request for surrender of the policy on 08.12.2011. She was informed that the surrender value will be Rs. 137658/-. On 03.02.2012, she received a cheque for Rs. 124454/-. She is entitled to get the surrender value based on the NAV as on the date of surrender. Therefore, the complaint.

The insurer submitted that they have already issued a cheque for Rs. 6590.86 towards the differential amount and the complainant had encashed the same. Nothing more is payable to the complainant.

Decision:- The complainant made a surrender request on 08.12.2011. The unit statement would reveal that the fund value as on 09.12.2011 was Rs. 134832.84. After deduction of surrender charge and service tax , the amount payable was Rs. 131045.39. There is no dispute regarding the authenticity of the statement of account. So, the balance amount payable was Rs. 6590.86. By issuing the cheque for Rs. 6590.86, the insurer had fully discharged their liability. The complainant abstained from appearing before this Forum after filing the complaint and after receipt of the cheque. So, it is to be inferred that she is satisfied with the settlement arrived at. So, the complainant is not entitled to any further relief in the complaint. In the result, the complaint is dismissed.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-011-010/2012-13

Col. P J John

Vs

ING Vysya Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/47/2013-14 dated 18.07.2013

The complainant had taken New One Life Plan policy from the Respondent-Insurer paying single premium of Rs. 1 lac.. The policy matured on 06.03.2012 and he received maturity value of Rs. 52384/- only. The policy was sold to him without explaining the disadvantages. Therefore, the complaint.

The complainant submitted that he was told that on maturity, he will get a substantial amount. There was no proper appraisal of the policy features and conditions. He received only a meager amount after 5 years. He is entitled to receive atleast the premium paid by him.

The insurer submitted that the complainant was provided life cover of Rs. 5 lacs for the policy term of 5 years. He took the policy voluntarily, after understanding the features and conditions. Maturity value was paid in accordance with the policy conditions.

Decision:- The contents of the policy schedule reveals that the policy has been issued in tune with the requirements made in the proposal form. The complainant did not make a request for free look period cancellation also. Complainant being an educated person, after receiving the policy and terms and conditions, can not contend that he was not aware of the policy conditions. Clause 6 of the policy conditions deals with various charges that will be levied by the insurer. As per Clause 5.3, the complainant is entitled to the fund value as on the date of maturity, as maturity benefit. The fund value as on 06.03.2012 was Rs. 52384/- as per the account statement. So, the Maturity payment is in accordance with the policy conditions. Here the complainant had invested Rs. 1 lac in the policy and after 5 years he received only Rs. 52384/- as Maturity benefit. The insurer had levied a total amount of Rs. 62218/- towards various charges. This would leave the impression that the party who is benefited under the policy is the insurer. The available facts, circumstances and evidence bring forth a situation conducive for awarding Ex-gratia payment as envisaged under Rule 18 of RPG Rules. I am satisfied that Ex-gratia payment of Rs. 20000/- would meet the ends of justice. In the result, the complaint is disposed of

with a direction to the insurer to pay Rs. 20000/- on Ex-gratia basis to the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-015-007/2012-13

V Bhagyalakshmy

Vs

Bharti AXA Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/48/2013-14 dated 22.07.2013

The complainant and her husband had applied for same type of policy from the Respondent-Insurer by paying Rs. 46000/- by a single cheque on 11.11.2011. On receipt of the policy of the husband , though she had not received her policy, a letter for cancellation of both polices were sent. The insurer declined her request. Therefore, the complaint.

The complainant submitted that the policy was not received by her in time and she made a request for cancellation of the policy at the earliest point of time. The insurer is bound to cancel the policy and she is entitled to receive the premium amount.

The insurer submitted that the policy was delivered to the complainant on 02.12.2011. As the request for cancellation of the policy was received much beyond the free-look period, it can not be accepted.

Decision:- Even though the insurer is contending that the policy was delivered to the complainant on 02.12.2011, there is no evidence as to when actually the policy documents were delivered to the complainant. The complainant had sent several letters to the insurer alleging non-receipt of the policy documents and also requesting for cancellation.. So, there is nothing in evidence to show that the cancellation request was not sent by the complainant within the free look period. The complainant had made a request for cancellation of the policy even prior to the receipt of the policy documents and she had forwarded the policy as and when it was received by her. The ground stated for denial of the cancellation request is filmsy and unacceptable. The decision of the insurer in this regard can not be upheld. In the result, an award is passed directing the insurer to cancel the policy issued to the complainant and allow refund of the premium within the

prescribed period failing which the amount shall carry interest at 9% per annum from the date of complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-058/2012-13

K Krishnankutty

Vs

LIC of India

AWARD No. IO/KCH/LI/49/2013-14 dated 23.07.2013

The complainant had taken Jeevan Asha policy from the Respondent-Insurer. He underwent a major surgery and submitted a claim seeking surgical benefit under the policy. The insurer rejected the claim. Therefore, the complaint.

The complainant submitted that he was issued a policy under Table 129 and it was never converted to Table 131 and he was not issued with any fresh policy in that connection. He underwent a major surgery viz, CABG. The repudiation of the claim is illegal and against policy conditions.

The insurer submitted that the policy was issued under Table 129. Thereafter premium was enhanced and the policy was converted to one under Table 131. As per policy conditions of T-131, CABG is specifically excluded. So the claim was repudiated. Also the policy matured and the maturity benefits were settled.

Decision:- Admittedly the complainant had applied for Jeevan Asha policy under T-129 and was issued with the same. Eventhough the insurer is contending that the policy was converted into T-131 later, the available evidence is to the effect that the policy continued under T-129 and attained maturity. The complainant underwent CABG (at GKNM Hospital, Coimbatore), which is a major surgery involving aorta. Major surgery involving aorta (excluding aortic valve) squarely comes under Clause 11(b) of Jeevan Asha policy issued under T-129. The insurer rejected the claim based on Clause 11(b)(A) of the policy conditions applicable to Jeevan Asha II policy issued under T-131 which has no relevance in this case as the policy in question is under T- 129. As per Clause 11(b) of T-129, the

complainant is entitled to 50% of the sum assured towards surgical benefit. Here it comes to Rs. 50000/-. In the result, the an award is passed directing the Respondent-Insurer to pay to the complainant an amount of Rs.50,000/- with 9% interest per annum from the date of filing of the complaint till the date of award within the prescribed period failing which the amount shall carry further interest @9% per annum from the date of award till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-009-012/2012-13

Mr. & Mrs. Thomas Oonnoonny

Vs

Bajaj Allianz Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/50/2013-14 dated 24.07.2013

Both the complainants took policy from the Respondent-Insurer paying Rs. 250000/- and Rs. 182200/- respectively .believing it to be one time investment for 3 years. The policies were terminated by the insurer for the reason of non-payment of regular premiums. Therefore, the complaint.

The complainant submitted that they did not pay further premiums as they were of the belief that it was a single premium policy. It was noted in the cheque issued, that the investment was for a period of 3 years only. The insurer returned only a meager amount on termination. They are entitled to get back atleast the premium paid.

The insurer submitted that the policies were issued strictly as per the proposal form submitted by the well educated complainants. It was never informed that the policies were single premium ones and for 3 years only. Due to non-payment of subsequent premiums, policies lapsed and foreclosed and eligible fund value was provided to the complainants. Nothing more is payable now.

Decision:- The very basis of the issuance of insurance policy is the proposal form submitted by the insured. It is seen that the policies are issued strictly as per the request made in the proposal forms submitted by the complainants where annual premium with term of 10 years is shown. The contents of the cheque has no overriding effect on the contents of the proposal form and also there is no mention in the cheque that the

payment was towards single premium. Also there was no request for free look period cancellation. So, the allegation of cheating is not sustainable. In the circumstances the complainants can not seek refund of the premium with interest. Due to non-payment of premiums, the policies lapsed and later foreclosed as per Clause 5(b)(ii) of the policy conditions. The payments in respect of foreclosures are found in order. But from the statements produced before this Forum, it is seen that the loss suffered by the complainants and the gain amassed by the insurer would prick the conscience of a reasonable thinking person. The available facts, circumstances and evidence bring forth a situation conducive for awarding Ex-gratia payment as envisaged under Rule 18 of RPG Rules. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 50000/- to the 1st complainant and Rs. 35000/- to the 2nd complainant on Ex-gratia basis within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of this award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-960/2011-12

K R Jyothy

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/51/2013-14 dated 24.07.2013

The complainant had taken 3 policies from the Respondent-Insurer. She submitted proposals for single premium policies, but the agent cheated her and issued regular premium policies. She is entitled to refund of the premium paid by her in the policies. Therefore, the complaint.

The insurer submitted that the policies were issued strictly as per the proposal forms submitted by the complainant. All the policies were issued under the same plan in the name of the complainant and her two daughters. Due to non-payment of 3rd premium onwards, policies lapsed and later auto terminated and the eligible surrender value under the policies were given to the complainant as per policy conditions. The customer information report submitted along with the proposal reveals that the complainant herself was the Financial Advisor in relation to the policies taken by her. So, the allegation of mis-selling is without any basis.

Decision:- It is seen that the policies are issued strictly as per the request made in the proposal forms submitted by the complainant. When allegations of misrepresentation and mis-selling are raised, the burden is entirely on the person making those allegations. The

customer information report submitted along with the proposals reveals that the complainant herself was the Financial Advisor in relation to the policies taken by her.Her employer was the corporate agent in these policies. The allegation would amount to allegation against herself. There was no request for free look period cancellation. Also she had paid the 2nd yearly instalment in all the policies. All these are telling circumstances which cut at the root of the allegations of mis-selling and misrepresentation. Due to non-payment of 3rd premium onwards, the policies lapsed and later terminated as per policy conditions and the surrender value paid is in order. So, the complainant is not entitled to get the refund of premiums paid. Here the complainant had invested altogether Rs. 3 lacs. But she received back a meager amount only. In the meantime the insurer had gained substantially. The available facts, circumstances and evidence bring forth a situation conducive for awarding Ex-gratia payment as envisaged under Rule 18 of RPG Rules. In the result, the complaint is disposed of with a direction to the insurer to pay a total amount of Rs. 60000/- to the complainant on Ex-gratia basis within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-008-016/2012-13

S Rajasekharan Nair

Vs

Kotak Mahindra Old Mutual Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/52/2013-14 dated 24.07.2013

The complainant had applied for policy on 25.01.2008 from the Respondent-Insurer paying premium of Rs. 20000/- The insurer had agreed to issue a single premium policy. In spite of several reminders , he did not receive the policy documents. After 3 years, when he approached the insurer for collecting the maturity benefit, it was told that the policy was foreclosed and nothing was payable . Therefore, the complaint.

The complainant submitted that he took the policy on the definite understanding that it was a single premium one and he never received the policy documents. He could not avail the right to get the policy cancelled during free look period , as he did not receive the policy. He is entitled to get back the premium paid.

The insurer submitted that the complainant had applied for the policy after fully understanding its features and terms and conditions. There is no element of cheating. Only when revival was declined , he had sent letter alleging non-receipt of policy documents. The policy had not acquired any surrender value.

Decision:- In this case, the insurer is not in a position to produce any document which would enable them to substantiate their contention that the policy documents were delivered to the complainant. Complainant is strongly objecting this contention and emphasizing that till date he had not received the policy documents. So, there is complete lack of evidence that the complainant received the policy from the insurer. By not issuing the policy to the complainant, he had been denied of his valid right to seek cancellation of the policy within the free look period. A policy which had not been issued to the complainant had been lapsed and later terminated by the insurer. All other aspects are relegated to the background when the complainant had not received the policy documents. In the circumstances, the complainant is entitled to get the policy cancelled and get refund of the premium. In the result, an award is passed directing the insurer to cancel the policy issued to the complainant and allow refund of the premium within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-002-849/2012-13

V N Chandrasekharan

Vs

SBI Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/53/2013-14 dated 25.07.2013

The complainant and his wife had taken Unit Plus II Pension policies from the Respondent-Insurer and the same matured on 31.03..2012. When they approached the insurer , it was told that pension only will be paid . Therefore, the complaint.

The complainant submitted that he was given assurance that on maturity he will get the entire fund value. He is not interested to get pension. He and his wife are entitled to get back the maturity amount.

The insurer submitted that the policy issued was under pension plan and after the date of vesting only pension can be given. The complainant did not tender any request for surrender before the vesting date. Now they can only opt for the various options mentioned for pension payment. They have not given option for pension so far..

Decision:- There is no reliable evidence as to the actual sending of maturity intimations to the complainant by the insurer.. Complainant has submitted that he had not received any intimation from the insurer. Copies of the letter produced by the insurer would reveal that there is no mention about the equally important right of the complainant to surrender the policy before the vesting date. These facts show that the insurer had not acted in good faith. Clause 10 of the policy reveals that the policyholder can surrender the policy for surrender value at any time. Here there is no restriction that surrender is possible only prior to the date of vesting. It is specifically stated that the policy holder may surrender the policy at any time. Only restriction for single premium policies is that they can be surrendered from 4th year onwards. So, the request made by the complainant on 21.11.2012, for all practical purposes, can be treated as a request for surrender of the policy. The surrender request was made after completion of 4 policy years. The outcome is that the complainant and his wife are entitled to receive Surrender Value in the respective policies. The account statements shows the combined fund value as on 31.03.2012 as Rs.2249363.31 The insurer is liable to pay this amount to the complainants as surrender value as these amounts are lying idle. In the result, an award is passed directing the insurer to pay an amount of Rs. 122337.93 to the complainant and Rs. 127025.38 to the wife of the complainant within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-1006/2011-12

Meena Antony

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/54/2013-14 dated 26.07.2013

A representative of the Respondent-Insurer visited DOHA in Nov 2010 and convinced the complainant to take a 5 year pension plan policy with first premium of Rs. 2 lacs. The policy was sent to her hometown address and when she found out that it was issued for a term of 11 years, she approached the insurer for cancellation of policy and refund of premium. The insurer rejected her request. Hence, the complaint.

The insurer submitted that the policy was issued based on the duly signed proposal form submitted by the complainant. Policy was issued for 11 years with annual premium of Rs. 2 lacs, as requested. The policy was sent to her mailing address provided in the proposal form and there was no request for cancellation of the policy within the free look period. On account of non-payment of premium due, the policy lapsed. She made the first complaint after a lapse of few months. There is no reason or ground to cancel the policy.

Decision:- On perusal of the proposal form and policy schedule, it is quite evident that the complainant was issued with policy as required by her in the proposal form. In the proposal form she had provided her mailing address and permanent address and both are the same. There is no evidence that she had provided her DOHA address and had instructed the insurer to send the policy documents in that address. So, the insurer can not be faulted for sending the policy in the local address provided by the complainant in the proposal form. Admittedly, she had received the policy sent in her mailing address. So, the contention of the complainant that she received the policy only in Feb. 2011 has no merit at all. There was no request from the side of the complainant for cancellation of the policy within the free look period. She had not urged any other valid ground which would vitiate the issuance of the policy to the complainant. So, she is not entitled to get the policy cancelled. The complainant is not entitled to any relief in the complaint. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-1016/2011-12

Dakshayini V P

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/55/2013-14 dated 29.07.2013

The complainant had taken a policy through HDFC Bank from the Respondent-Insurer believing it to be a single investment for a period of 5 years. Only when she received the premium payment notice , she came to know that she had been cheated and it was a

regular premium policy. Her request for return of premium was turned down by the insurer. Therefore, the complaint.

The complainant submitted that she had been cheated by the insurer in taking the policy which is beyond her means and knowledge. The policy is vitiated and she is entitled to get the refund of premium paid.

The insurer submitted that the policy was issued with premium paying term of 5 years and term of 10 years as applied by the complainant in the proposal form. There was no request for free look period cancellation. There was no mis-representation or no element of cheating is involved in the issuance of the policy. The complainant is not entitled to refund of premium.

Decision:- When the complainant is making allegations of cheating, mis-representation and mis-selling against the officers of the insurer, the burden is on her to establish the same . As this is a complaint of civil nature, she can establish the same by applying the Rule of Preponderance of Probability. The very basis of the contention of the complainant is that she never wanted an insurance policy but her intention was to make investment with the bank for 5 years. She had only subscribed her signature in the proposal form with out knowing its contents. The insurer is also not rebutting this contention. In the proposal form the income source is shown as that of her husband and no consent letter is obtained from the husband to that effect. It is reported that she is a divorcee for the last 15 years and her husband is mentally not sound and is not having any income .She has studied upto 10th std only. But in the proposal her educational qualification is shown as "B.A". The available circumstances would lead to the conclusion that in all probability, the agent/officer of the insurer made false entries in the proposal form and caused to issue the disputed policy. When there is evidence in support of the allegations of mis-selling and cheating, the contract of insurance is vitiated and thereby, the insured is entitled to receive refund of the premium. In the result, an award is passed directing the insurer to cancel the policy issued to the complainant and allow refund of the premium within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-055/2012-13

Sathibhai Amma

Vs

LIC of India

AWARD No. IO/KCH/LI/56/2013-14 dated 30.07.2013

The complainant had taken Health Plus policy from the Respondent- Insurer in 2008 with Major Surgical Benefit of Rs. 2 lacs. She underwent Cardiac double valve replacement surgery. The claim for the same was repudiated by the insurer stating that it was a pre-existing illness. Therefore, the complaint.

The complainant submitted that she suffered giddiness and palpitation only in 2011. She was diagnosed for Rheumatic heart disease and two heart valves were replaced. The repudiation of the claim is against the policy conditions and the medical evidence available.

The insurer submitted that the complainant suffered chronic rheumatic heart disease. So, she might have suffered rheumatic fever and the resultant heart disease much prior to the inception of the policy. Expert opinion also suggests the same. So, the repudiation of the claim on the ground of pre-existing illness is strictly based on policy conditions,

Decision:- As per the Discharge summary, the complainant was mainly diagnosed for Rheumatic heart disease. Double valve replacement and aortic root enlargement procedure were done. Here it is specifically mentioned that she suffered Rheumatic Fever 10 days back only. In the Hospital treatment form also, there is no mention of pre-existing Rheumatic fever or pre-existing Rheumatic heart disease. The truthfulness of the contents of the Discharge summary is beyond doubt. A pre-existing medical condition can not be assumed or presumed without any evidence. There is complete lack of evidence that the complainant had suffered Rheumatic fever prior to her present hospitalization and she had contracted Rheumatic heart disease prior to the inception of the policy. So, also there is no evidence that the complainant had knowledge about the symptoms of the ailment prior to the inception of the policy. So, exclusion Clause 6(II)(ii)(ii) is not attracted and the repudiation can not be sustained. In the result an award is passed directing the insurer to pay the complainant daily Cash Benefit of Rs. 14950/- and Major Surgical Benefit of Rs. 2 lacs within the prescribed period failing which , the entire amount shall carry interest @9% per annum from the date of filing of the complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-012-024/2012-13

S Ushakumari

Vs

Met Life India Insurance Co Ltd.

AWARD No. IO/KCH/LI/57/2013-14 dated 31.07.2013

The complainant had taken a policy from the Respondent-Insurer in 2007 believing that there will be immense growth in the fund value. She paid 3 premiums of Rs. 50000/- each. She made a partial withdrawal of Rs. 73000/- in 2010. Now it is learnt that surrender charge will be levied if policy is surrendered. She has approached this Forum for getting the fund value without surrender charge.

The complainant submitted that the amount available now is too meagre and the surrender charge levied by the insurer is on the high side when compared with other insurers.

The insurer submitted that the policy was issued strictly based on the proposal submitted by the complainant. Due to non-payment of subsequent premiums , the policy was auto-foreclosed. The policy conditions provide for levy of surrender charge from the fund value in case of surrender. The relief sought is beyond the policy conditions.

Decision:- The policy was issued strictly as per the request made by the complainant and there was no request for free look period cancellation. Due to non-payment of subsequent premiums the fund value fell below one time annualized premium and the policy got auto- foreclosed as per Clause 21 of the policy conditions. The rights and liabilities of the parties to the contract are governed and controlled by the policy conditions and they are to be interpreted strictly as per the terms and conditions. In this case there is definite provision for levying surrender charge on surrender of the policy as provided in Clause 11(D) of the policy conditions. When levy of surrender charge is provided in the policy, the insurer is entitled to levy the same. So, no direction can be given to the insurer to waive their right to levy surrender charge from the fund value on surrender of policy. So, the relief sought in the complaint can not be ordered by this Forum. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-015-018/2012-13

K C Siyad

Vs

Bharti AXA Life Insurance Co Ltd.

AWARD No. IO/KCH/LI/58/2013-14 dated 31.07.2013

The complainant had taken Future Confident II policy from the Respondent-Insurer in 2008 paying first premium of Rs. 12000/-. He could not pay further premiums. The insurer unilaterally terminated the policy and paid a meagre amount of Rs. 783/- as surrender value in 2011. Therefore, the complaint.

The complainant submitted that the amount received is too meager. He is entitled to atleast 80% of the premium paid by him.

The insurer submitted that due to non-payment of subsequent premiums, the policy lapsed and as there was no revival, it was later foreclosed and the eligible surrender value as per policy conditions was paid. Nothing more is payable now.

Decision:- The crux of the dispute is regarding the quantum of surrender value received by the complainant. The policy conditions form part of the policy schedule. The rights and liabilities of the parties to the contract are governed and controlled by the policy conditions. Here the policy was foreclosed as per section 4.5(a) of the policy conditions. The surrender charges are given in Section 7.5. It is seen that the payment made by the insurer is in consonance with the policy conditions and statement of account. But in this case the insurer had levied charges which would amount to approxi. Rs. 10000/-. The complainant who had invested Rs. 12000/- had received back an amount of Rs. 783/-. The available facts, circumstances and evidence bring forth a situation conducive for awarding Ex-gratia payment as envisaged under Rule 18 of RPG Rules. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 2500/- to the complainant on Ex-gratia basis within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-003-992/2011-12

P R Sajeev

Vs

TATA AIA Life Insurance Co Ltd.

AWARD No. IO/KCH/LI/59/2013-14 dated 08.08.2013

The complainant had applied for a single premium policy from the Respondent-Insurer paying Rs. 66500/- on 29.10.2010. He received the policy only on 03.08.2011 and on the same day he made an application for cancellation of the policy, as he was issued with a regular premium policy. It was revealed that the insurer had not cancelled the policy and the amount was deposited in "Discontinuance Fund". Therefore, the complaint.

The complainant submitted that after a lapse of more than 7 months , he was issued with a cheque for Rs. 58546/-. He is entitled to get refund of the entire premium paid by him.

The insurer submitted that the policy was issued strictly as per the proposal form submitted by the complainant. As and when the complainant made request for cancellation of the policy, the same was processed and he was provided refund of Rs. 58414/-. Nothing more is payable now.

Decision:- It is seen that the insurer had issued the policy in tune with the contents of the proposal form. The complainant had failed to bring out any vitiating circumstance in the issuance of the policy. So, there is no scope for cancellation of the policy on the ground of mis-selling or misrepresentation. The free look cancellation request of the complainant dt. 03.08.2011 was processed by the insurer and payment effected on 30.05.2012. From the payout Calculation Sheet, it is seen that the payment effected by the insurer is as per the policy conditions. Here certain aspects needs attention. Though the policy was issued on 29.10.2010, the documents were received by the complainant only after a lapse of more than 10 months. Had he received the same in time , he could have got it cancelled much earlier whereby saving substantial amount. Also the insurer had not stated any ground or reason for the delay in allowing the cancellation request which was more than 9 months. On these two grounds the complainant had suffered much pecuniary loss. In the absence of any specific data to quantify the loss suffered by the complainant. The loss can only be guesstimated at Rs. 4000/-. In the result an award is passed directing the insurer to pay to the complainant a further amount of Rs.4000/- within the prescribed period failing which, the amount shall carry interest @9% per annum from the date of complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-006-053/2012-13

V J Thampy

Vs

Birla Sun Life Insurance Co Ltd.

AWARD No. IO/KCH/LI/60/2013-14 dated 12.08.2013

The daughter of the complainant had taken a policy from the Respondent-Insurer paying Rs. 14880/-. She could not make further payments due to financial crisis. After completion

of 3 years, she received Rs. 626.69 from the insurer towards closure of the policy. Therefore, the complaint.

The complainant submitted that she had suffered substantial loss due to the exorbitant charges levied by the insurer which is against policy conditions and the principles of law. She is entitled to receive back the premium after deducting a small amount towards charges.

The insurer submitted that due to non-payment of subsequent premiums, the policy lapsed and later terminated. Eligible surrender value as per policy conditions was paid to the insured. Nothing more is payable now.

Decision:- The crux of the dispute is regarding the quantum of charges levied by the insurer. Policy conditions are part of the contract of insurance. The rights and liabilities of the parties to the contract are governed and controlled by the policy conditions. It is seen that the payment made by the insurer is in consonance with the policy conditions and statement of account. So, as per the policy conditions, the complainant is not entitled to any further amount. But in this case the insurer had levied surrender charges which would amount to approxi. Rs. 10000/-. The complainant who had invested Rs. 14880/- had received back an amount of Rs. 626/-. The available facts, circumstances and evidence bring forth a situation conducive for awarding Ex-gratia payment as envisaged under Rule 18 of RPG Rules. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 4000/- to the complainant on Ex-gratia basis within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of award till the payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-002-071/2012-13

K A Bhaskaran

Vs

SBI Life Insurance Co Ltd.

AWARD No. IO/KCH/LI/61/2013-14 dated 14.08.2013

The complainant had taken Unit Plus II Pension policy from the Respondent-Insurer and the same matured on 31.03..2012. When he approached the insurer for maturity value on 30.03.2012 , it was told that pension only will be paid as his request was received after 3.00 pm on 30.03.2012. Therefore, the complaint.

The complainant submitted that he had given the surrender request well before 3.00 pm on 30.03.2012. He is not interested to get pension. Also he had not received the annuity intimations allegedly sent by the insurer. He is entitled to get back the maturity amount.

The insurer submitted that there was no request for surrender prior to 3.00 pm on 30.03.2012. Annuity option letter dt. 22.02.2012 was sent to the complainant. As the policy had vested on 31.03.2012, the complainant is not entitled to receive the maturity value in the policy. He has not given option for pension so far.

Decision:- The complaint pertains to delay in settlement of the claim and also disputes the legal construction of the policy conditions. So, this comes within the ambit of Rule 12(1)(d) & (e) of the RPG Rules The period of limitation provided under Rule 13(3)(b) of the RPG Rules does not start from the date of issuance of the policy but runs from the date on which the cause of action arises. So, the objection raised by the insurer regarding the maintainability of the complaint is not sustainable. There is no reliable evidence as to the actual sending of maturity intimations to the complainant by the insurer.. Complainant has submitted that he had not received any intimation from the insurer. Clause 10 of the policy reveals that the policyholder can surrender the policy for surrender value at any time. Here there is no restriction that surrender is possible only prior to the date of vesting. It is specifically stated that the policy holder may surrender the policy at any time. There is no endorsement on the returned surrender request, showing that it was received after 3.00 pm on 30.03.2012. In Clause 10(b), it is provided that surrender request can be received till 4.15 pm of any day. So, the rejection of the surrender request submitted by the complainant stating that it was received after 3.00 pm on 30.03.2012 is against the policy conditions and therefore, illegal and irregular. It is against the mandate contained in the policy conditions. In the result, an award is passed directing the insurer to pay to the complainant surrender value which is equal to the fund value less surrender charge applicable on 30.03.2012 with cost of Rs. 2500/- within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of filing of the complaint till the payment is effected.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-007-059/2012-13

K Sudha

Vs

Max Life Insurance Co Ltd.

AWARD No. IO/KCH/LI/62/2013-14 dated 14.08.2013

The complainant had taken Smart Assure policy from the Respondent-Insurer with annual premium of Rs. 20000/- She paid 3 annual premiums and then surrendered the policy. The surrender value received was much lower than the invested amount. It was revealed that a surrender fee of Rs. 10000/- was levied. The surrender fee levied is too big. Therefore, the complaint.

The complainant submitted that she was not informed of the surrender charge while taking the policy and the policy conditions do not authorize the insurer to levy surrender charge. She is entitled to receive atleast the entire fund value.

The insurer submitted that the complainant had applied for a policy with premium paying term of 10 years. After 3 years, she made a request for surrender and Rs. 43959/- was paid to her as surrender value after deducting surrender charge of Rs. 10000/- from the fund value. Realization of surrender charge is authorized by the policy conditions. The complainant is not entitled to any further amount under the policy.

Decision:- The dispute is mainly regarding the quantum of surrender charge levied by the insurer while allowing the surrender request submitted by the complainant. Section 4.1 of the policy conditions deals with Surrender. Surrender is possible after completion of one policy year. Section 1.1(g) deals with Guaranteed Surrender Value. It is defined as the fund value as on the date of surrender less the applicable surrender charge. A table of surrender charge payable is appended with the policy schedule. For 4th year surrender , surrender charge is given as 50% of the initial Annual Target Premium. So, there is definite provision for realization of surrender charge on surrender of the policy by the insured. There is no case for the complainant that she did not receive the entire policy documents. Father of the complainant, being the agent who solicited the policy, naturally would have explained all the features and policy conditions to the complainant before submission of the proposal form. As the ATP is Rs. 20000/- in this case, the surrender charge realizable in the 4th policy year is Rs. 10000/- . As per the fund value statement , it is seen that the payment made on surrender is in accordance with the policy conditions. As the payment effected by the insurer is in tune with the policy conditions, there is no reason to interfere with the decision taken by the insurer. In the result, the complainant is dismissed. No cost.

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<u>OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI</u>

Complaint No. IO/KCH/LI/21-001-060/2012-13

Dr. N C Kuttan

Vs

LIC of India

AWARD No. IO/KCH/LI/63/2013-14 dated 21.08.2013

The complainant had taken Asha Deep II policy from the Respondent-Insurer. The policy matured in 2010, but the claim was not settled till 26.11.2011. The settlement was delayed for two years. He is entitled to interest for the delayed period. Therefore, the complaint.

The complainant submitted that the policy was assigned to LIC HFL. There was no proper response from the side of the insurer to his queries. He is entitled to interest for delayed payment. He also submitted that LIC HFL had issued a cheque for Rs. 6402/- to him which he had returned.

The insurer submitted that the policy matured on 21.11.2010. Delay of 217 days occasioned in settling the claim. Insurer had paid Rs. 6402/- to LIC HFL, to whom the policy was assigned, towards penal interest for the delay occasioned. Nothing more is payable to the complainant now.

Decision:- It is the admitted case of the insurer also that a delay of 217 days occasioned in the settlement of the claim.. So, the complainant is rightly entitled to interest for the delay. By paying penal interest on the maturity amount, the insurer had discharged their liability. Penal interest was paid on account of the delay in settling the maturity amount. This was rightly paid to the assignee. Therefore, the complainant is not entitled to any further relief in the complaint. He can approach the LIC HFL for issuing a fresh cheque for Rs. 6402/-. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-089/2012-13

V L Francis

Vs

LIC of India

AWARD No. IO/KCH/LI/66/2013-14 dated 27.08.2013

The complainant had taken a pension policy from the Respondent-Insurer in 2003. He surrendered the policy on 17.12.2011 on medical grounds. He received a cheque for Rs. 32939/- on 02.02.2012 only. He made a request to the insurer for getting pension for the months of Dec. 2011 and Jan 2012, which does not yield any result. Therefore, the complaint.

The insurer submitted that though there was no provision for surrender, the request for surrender of the policy by the complainant was allowed as a special case on medical grounds on 02.01.2012. Along with the surrender value which was 98% of the purchase price, pension for the month of Dec.2011 and for the split period upto 02.01.2012 was also paid. He is not entitled to any further amount.

Decision:- It is seen that the surrender was allowed on 02.01.2012. A surrender penalty of 2 % of the purchase price was levied and pension for the month of Dec. 2011 @ Rs. 250/- and Rs. 21/- for the split period upto 02.01.2012 was also paid to the complainant along with the surrender payout. Thus a total amount of Rs. 32939/- was paid to the complainant. As the surrender was allowed on 02.01.2012, he is not entitled to pension for the entire month of Jan. 2012. The insurer had discharged their liability under the policy. The complainant is not entitled to any further relief in the complaint. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-002-890/2011-12

Sunil Abraham

Vs

SBI Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/67/2013-14 dated 30.08.2013

The complainant had taken Unit Plus II policy from the Respondent-Insurer in 2007. He surrendered the policy on 15.06.2010 with a request to credit the surrender value to his NRE Account. The insurer sent an ordinary cheque to his address after a lapse of nearly 1 year. Therefore, the complaint.

The complainant submitted that he had produced along with his surrender request A/c statement of his NRE A/c, cancelled NRE cheque etc. There was flagrant violation of the policy conditions and omissions on the part of the insurer in allowing his request. He had suffered much financial loss. He is entitled to interest and compensation and also the surrender value to be credited to his NRE A/c.

The insurer submitted that they could not credit the surrender value to the NRE A/c of the complainant as he had not supplied the relevant Certificate for direct credit of the amount to his NRE A/c. So, cheque was forwarded to his mailing address without any delay. The allegations of harassment are baseless.

Decision:- The dispute is regarding remittance of surrender value. In the proposal form the NRE A/c details of the complainant along with the DD details of his initial payment are given. From the bank statement which is produced before this Forum and also alleged to have been given along with the surrender request, it is evident that the initial premium had been sourced from the same NRE A/c which is noted in the proposal form. As the initial premium had flowed from the NRE A/c, there was every right for the complainant to get direct credit of the surrender value into his NRE A/c. His request was genuine and real. There is no evidence at all that any attempt was made from the side of the insurer for direct credit of the surrender value into the NRE A/c of the complainant. The available evidence and circumstances directly point to the omissions on the part of the insurer in not acceding to the request made by the complainant. The insurer did not make any attempt to safeguard the interest of the insured. The complainant is entitled to get the surrender value credited in his NRE Account with interest, on account of the delay occasioned. In the result, an award is passed directing the insurer to initiate steps to credit the surrender value of Rs. 188246/- with 6% interest per annum from 20.06.2010 till the date of award, on the complainant providing fresh documents/request for making direct credit of the entire amount into his NRE account. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-033/2012-13

Mariamma Varghese

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/68/2013-14 dated 03.09.2013

The complainant had taken Save Guard policy from the Respondent-Insurer. She had paid a total premium of Rs. 2.94 lacs in the policy. She had suffered much loss on account of the unauthorized fund switch by the insurer.. Now the fund value is much below the investment amount. Therefore, the complaint.

The complainant submitted that now she had received a cheque for Rs. 202020/- towards surrender value and the same is very low. She invested the amount in the Growth fund which was switched to Ptotector fund without her knowledge and consent. She had suffered loss on account of the unauthorized fund switching and therefore she is entitled to receive the entire premium paid by her with compensation.

The insurer submitted that the policy was issued as per the proposal submitted by the complainant and there was no request for free look period cancellation. The fund switch was done as the request of the complainant. Due to non-payment of premiums, the policy was Auto foreclosed on 07.08.2013 and cheque for Rs. 202020/- was sent to the complainant. The complainant is not entitled to any further relief.

Decision:- The signature in the fund switch form dt. 09.08.2011 produced by the insurer shows vast deviation from the admitted signatures of the complainant. The several differences appearing in the disputed signature would lead to the conclusion that the complainant had not put her signature in the request form dt. 09.08.2011. So, the switching of fund from Growth Fund to Protector Fund is unauthorized. The insurer had not produced any unit statement to prove the veracity of their surrender value settlement. Also the same was not provided to the complainant along with the surrender value cheque. The quantification of the loss allegedly suffered by the complainant is made impossible by the insurer by the non-production of detailed Unit Statement. All these point to the inept and irresponsible attitude exhibited by the insurer. In the absence of any material to quantify the actual loss, I am satisfied that this is a fit case where Rule 18 of the RPG Rules can be invoked to safeguard the interest of the insured. Here is a case where Rule 18 can be invoked so as to provide ex-gratia payment to the complainant-insured and such a decision is quite warranted for the ends of justice. In the result, the complaint is disposed of with a direction to the insurer to pay Rs. 100000/- to the complainant on Ex-gratia basis with cost of Rs. 2000/- within the prescribed period failing which the amount shall carry interest at 9% per annum from the date of award till the payment is effected.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/22-013-091/2012-13

Narayanan Kutty Manghat

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/69/2013-14 dated 06.09.2013

The complainant had taken a policy under Pension Builder Plan from the Respondent-Insurer. He had returned the policy for free look period cancellation. The payment was delayed. He claimed interest for the delay @18% per annum. The insurer at last paid interest @ 8% per annum. Therefore, the complaint.

The insurer submitted that though there was no sufficient ground for cancellation of the policy, as a special case the same was allowed and interest @8% per annum was also paid for the delay. The present claim is unreasonable and against policy conditions.

Decision:- The insurer cancelled the policy on their satisfaction of existence of sufficient ground for free look cancellation. Admittedly delay occurred in providing refund of the premium. The complainant had made request for free-look period cancellation of the policy on 07.07.2011. The insurer allowed free look cancellation and effected refund of premium only on 02.01.2012. There is no acceptable explanation from the side of the insurer for the delay occasioned in making refund of the premium. The delay occasioned is sufficient ground for allowing interest. The insurer could have completed processing the free look cancellation atleast by the end of July 2011. The insurer provided interest from 24.10.2011 only. There is no reason to restrict payment of interest from 24.10.2011 only. Eight percent interest per annum provided by the insurer is quite reasonable. The complainant is therefore, entitled to 8% interest per annum on the premium amount refunded to him from 01.08.2011 to 02.01.2012. In the result, the complaint is disposed with a direction to the insurer to pay interest @8% per annum on the refund amount from 01.08.2011 to 02.01.2012. Rs. 10586/- already paid shall be given credit to. The balance payment shall be made within the prescribed period failing which the amount shall carry interest @9% per annum from the date of complaint till payment is effected. No cost.
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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-153/2012-13

Jijo Panackal

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/70/2013-14 dated 06.09.2013

The complainant had taken a policy from the Respondent-Insurer. He paid 3 annual premiums of Rs. 20000/- each. He came to know that after 4 years the fund value was much lower than the amount invested by him. He is entitled to get refund of the premiums paid by him. Therefore, the complaint.

The insurer submitted that the policy was issued as per the proposal form submitted by the complainant and he was well aware of the terms and conditions of the policy at the time of applying for the same. Due to non-payment of premiums, the policy was made paid-up. The complainant surrendered the policy on 19.10.2012 and he was paid Rs.

24810/- towards surrender value as per the policy terms and conditions. Nothing more is payable now.

Decision:- In the complaint, there is no allegation regarding any mis-selling. Also there was no request for free look period cancellation. So, the complainant had not made out any ground for cancellation of the policy. During the pendency of the complaint before this Forum, the complainant surrendered the policy on 19.10.2012. The insurer paid Rs. 24810/- towards surrender value . It is seen that as per the unit statement produced before this Forum, the surrender payment is in order. The complainant was absent for the hearing also. So, the only inference that can be drawn is that he is satisfied with the surrender value received by him. So, the relief of refund of premium sought in the complaint has become infructuous. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/22-011-042 & 043/2012-13

Rajendran Nair & M P Asha

Vs

ING Vysya Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/71/2013-14 dated 06.09.2013

The 1st complainant had taken 2 policies and the 2nd complainant had taken one policy from the Respondent-Insurer. At the time of taking the policies, the complainants were made to believe that they are single premium policies. They were issued with regular premium policies. Agent of the Insurer as well as the Officers of the Insurer had made misrepresentation to the complainants and thereby cheated them while applying for the policy. Therefore, the complaints.

The complainants submitted that they took the policies on the definite understanding that the policies applied for were single premium policies. They never wanted regular premium policies. The contents of the proposal forms were filled up by the agent as well as the Officers of the Insurer. The several columns filled up in the proposal forms are against true facts which were not provided by the complainants. As the policies are

vitiated, they are liable to be cancelled and the complainants are therefore, entitled to refund of premiums.

The Insurer submitted that the complainants had filled up the proposal forms by themselves and they had voluntarily applied for the policies. They were very much aware of the features of the policy and the policy conditions. The First Complainant is employed. There was no initiative from the side of the complainants for cancellation of the policies within the free-look period. So, they have accepted the policies. Allegations made in the complaint are baseless. The complainants are not entitled to refund of the premiums.

Decision:- When allegations of mis-selling, misrepresentation, fraud, cheating etc. are made, the burden is on the complainants to establish the existence of the same in the issuance of the policies. The onus of proof is not so strenuous as in a criminal case. They can establish the existence of those vitiating factors by applying the Rule of Preponderance of Probability. . The proposal forms submitted by the complainants are the very basis of the contract of insurance resulting in the issuance of the policies in favour of the complainants. It is contended that the contents of the proposal forms were filled up by the agent as well as the Officers of the Insurer as the complainants were having no knowledge of English. It is seen that in the proposal forms, the income, educational qualifications and occupation are shown incorrectly. Also in the policy schedules issued to the First complainant, his address is entirely different from the address in the proposal form. The complainants have produced reliable proofs to establish their actual income, educational qualifications and property holdings. Now the evidence available before this Forum is to the effect that the income of the complainants together is the earnings from employment of the first complainant

If actual income of the complainants were shown in the proposal forms, the insurance underwriters would not have processed the policies issued to the complainants. All these circumstances would lead to the conclusion that the complainants wanted only single premium policies. They never intended to take policies with regular premium of such exorbitant amounts which are not within their means. So, we can find that there was no occasion for proper underwriting of the proposals. The policies were issued to the complainants by misleading and by making misrepresentations. The complainants were issued with policies which they did not require. The evidence relating to mis-selling and misrepresentation are sufficient to vitiate the policies issued to the complainants. The contract of insurance resulting in the issuance of the policies did not have the consent of the complainants. So, the policies are liable to be cancelled. The complainants are entitled to get the policies cancelled. In the result, an award is passed as follows :-

> **(1). The Respondent-Insurer shall cancel Policy Nos.01790594 (First Policy) and No. 01808641 (Second policy) issued to the First complainant (Sri. K.R. Rajendran Nair) and provide refund of premiums paid by him in those policies. Such payment shall be made within the period prescribed hereunder. Failing which, the refund amount**

shall carry 9% interest per annum from date of filing of the complaint (18.04.2012) till payment is effected. The Respondent-Insurer is also liable to pay cost of Rs. 2,000/- to the First Complainant.

(2) The Respondent-Insurer shall cancel Policy No. 01944577 (Third policy) and provide refund of premium to the Second complainant (Smt. M.P.Asha). The payment shall be made within the period prescribed hereunder. Failing which, the refund amount shall carry 9% interest per annum from date of filing of the complaint (18.04.2012) till payment is effected. The Respondent-Insurer is also liable to pay cost of Rs. 1,000/- to the Second Complainant.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-013-118/2012-13

Suseela Selvaraj

Vs

Aviva Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/73/2013-14 dated 09.09.2013

The complainant had taken a policy from the Respondent-Insurer paying Rs. 50000/-. When the complainant went to the office of the Insurer for getting maturity amount and she was told that the amount available was only Rs.1,076/-. The complainant is entitled to receive atleast the premium paid by her. Therefore, the complaint.

The complainant submitted that at the time of making payment, she was told that it was a single investment and there will be three fold increase after three years and she can withdraw the entire amount after three policy years. She is employed as a Nursery Teacher and at the time of making payment, she was getting a monthly income of Rs.800/- only. She had no means to pay further premiums. She is atleast entitled to the premium paid by her.

The insurer submitted that the complainant had applied for regular premium policy and accordingly policy was issued. There was no request from the side of the complainant for free-look cancellation of the policy. Due to non-payment of further premiums, the policy lapsed and thereafter, as there was no revival , the policy changed to 'Early Lapse Surrendered' status. The fund value available on the date of Early Lapse Surrender was Rs.1,076/-and cheque was issued for that amount. The complaint is only to be dismissed.

Decision:- The contents of the proposal form would reveal that the said policy had been issued in tune with the request made in the proposal form. Admittedly, the complainant did not make any representation to the Insurer for cancellation of the policy within the free-look period or thereafter within three years of the issuance of the policy. So, the inference is that she was satisfied with the policy received by her. The complainant had not succeeded in establishing the allegations of mis-selling, misrepresentation etc., warranting cancellation of the policy and awarding refund of the premium paid by her. From the fund statement produced by the insurer, it is seen that the complainant who had invested Rs.50,000/- is getting a meagre amount of Rs.1,076/- after completion of three policy years. The complainant had suffered substantial loss whereas the Insurer had gained enormously. On a consideration of the facts, evidence and circumstances, I am satisfied that this is a fit case where Rule 18 can be invoked to do substantial justice to the complainant in the complaint. Rule 18 of RPG Rules empowers the Insurance Ombudsman to order Ex-gratia payment in appropriate cases. In the result, the complaint is disposed of with a direction to the Respondent-Insurer to make Ex-gratia payment of Rs.20,000/- to the complainant within the prescribed period failing which, the amount shall carry interest at 9% per annum from the date of award till payment is effected. This payment is in addition to the payment of early lapse surrender value. No cost

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-111/2012-13

M S Navakumar

Vs

LIC of India

AWARD No. IO/KCH/LI/75/2013-14 dated 12.09.2013

The complainant had taken Market Plus policy from the Respondent-Insurer in 2008 investing Rs. 30000/-. He surrendered the policy on 05.01.2012 and received Rs. 29209/- as surrender value. He was promised double the investment at the time of taking the policy. After completion of 4 years , he was provided an amount even less than the amount invested by him. Therefore, the complaint.

The insurer submitted that the complainant was provided the fund value as on the date of surrender ie, 05.01.2012, .as surrender value as per policy conditions and the fund value statement is also produced. He is not entitled to any further amount.

Decision:- The insurance policy is the outcome of a contract of insurance between the insured and the insurer. The insured and the insurer are bound by the policy conditions. As per Clause 4(A) of the policy conditions , the investment is subject to realization of allocation charge. So 3.3 % is deducted as allocation charge and the balance is invested. As per the unit statement , the fund value as on 05.01.2012 is Rs. 29209/- . The complainant was issued with a cheque for Rs. 29209/- on 10.01.2012. So, there was no delay in effecting payment of surrender value. The payment effected is in accordance with Clause 10 of the policy conditions. The available fund value as on the date of surrender was paid to the complainant. So, the complainant is not entitled to any further relief. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-001-107/2012-13

P Krishna Leela

Vs

LIC of India

AWARD No. IO/KCH/LI/76/2013-14 dated 13.09.2013

The complainant had taken Future Plus policy from the Respondent-Insurer on 30.06.2006. On 13.07.2011, the complainant applied for surrender on medical ground. She was issued with a cheque for Rs.1,18,993/-. As on 30.06.2011, the fund value available was Rs.1,37,973/-. The complainant is seeking the balance amount of Rs.18,980/- . Therefore, the complaint.

The complainant submitted that though she approached the insurer on 30.06.2011 for surrender of policy , it was not allowed. Then the complainant made an application for surrender on medical ground. The amount received by her is much less than the fund value available on 30.06.2011. She is entitled to the balance amount.

The insurer submitted that the complainant ought to have surrendered the policy on or before 29.06.2011. 100% of the fund value was invested in annuity on 30.06.2011. Surrender request was received in July 2011 on medical ground. The fund value available as on 30.06.2011 was Rs.1,34,077/- only. Surrender penalty was deducted from the fund value and surrender value was settled. Nothing more is payable now.

Decision:- As per the policy schedule, the date of vesting is 30.06.2011. As per the special note in capital letters given in the letter dated 05.01.2011 to the complainant, it is stated that surrender is not possible after 30.06.2011. That would invariably mean that surrender is possible even on the date of vesting, i.e., on 30.06.2011. The complainant had approached the Insurer for surrender of the policy on 30.06.2011. Admittedly the surrender request was not received by the Insurer stating that the policy had already vested and surrender is not possible on 30.06.2011. As per the Unit statement produced by the insurer, the fund value (bid value) as on 30.06.2011 was Rs.1,34,077.40. Clause 10 does not state that surrender is possible only upto the previous day of vesting. Admittedly, the complainant had not opted any of the options provided under the policy on vesting. The policy conditions do not state as to the consequences of non-exercise of options provided under the policy. On a consideration of the entire circumstances and other evidence available in the complaint, I am satisfied that this is a clear case where the Respondent-Insurer ought to have allowed surrender of the policy on 30.06.2011. The complainant ought to have received Rs.1,34,077.40. So, the complainant is entitled to receive a further amount of Rs.15,084.40 from the Insurer. In the result, an award is passed directing the Insurer to pay a further sum of Rs.15,084.40 to the complainant within the prescribed period failing which, the amount shall carry interest at 9% per annum from the date of filing of the complaint till payment is effected. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-178/2013-14

V Vishwanatha Shenoy

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/78/2013-14 dated 26.09.2013

The complainant had taken 4 policies from the Respondent-Insurer believing it to be like Bank fixed deposits. Due to illness and financial problems he could not remit the

subsequent premiums. His request for refund of premium of Rs. 10.50 lacs paid by him was rejected by the insurer. Therefore, the complaint.

The complainant submitted that he took policies on the definite understanding that all the policies were single premium policies. He paid further premiums in the three regular premium policies only to avoid loss of the initial premiums paid by him. Regular premium policies were issued to him on account of mis-selling and misrepresentation. Those policies are vitiated and he is entitled to refund of the premiums paid by him.

The insurer submitted that the policies were issued to the complainant on the basis of the proposal form submitted by him. The complainant did not make any application for cancellation of the policies within the free-look period. On the other hand, he made payment of premiums in the regular premium policies issued to him. He had accepted the policies. The present allegations are only to get the policies cancelled and receive refund of premiums.

Decision:- When allegations of mis-selling, misrepresentation and undue influence are alleged by the complainant in relation to the issuance of the policies, the burden is entirely on him to establish the existence of those factors. These allegations are made first in point of time at the time of hearing only. In the complaint filed before this Forum as well as the letter to the insurer, the averments are to the effect that the complainant was not in a position to pay further premiums in the policies due to financial difficulties. It is also stated in the complaint that he was diagnosed with Parkinson's disease and his business suffered substantial loss. So, he was not in a position to continue payment of premiums. He sought refund of premiums to tide over the financial crisis. So, we can find that there is not even a whisper in the complaint regarding mis-selling, misrepresentation or undue influence. The arguments now advanced by the complainant without the support of pleadings/averments in the complaint are unacceptable and there is complete lack of evidence to substantiate the contentions independent of the pleadings. Also there was no request for free-look cancellation of the policies. Payment of further premiums in the First, Second and the Third policies would clearly indicate that he was satisfied with those policies received by him. The complainant is seeking cancellation of the policies and refund of premiums. The complainant had utterly failed in establishing any of the vitiating circumstances. So, the complainant is not entitled to the relief sought in the complaint. In the result, the complaint is dismissed. No cost.

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OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No. IO/KCH/LI/21-005-123/2012-13

Dr. Mercykutty Joseph
Vs
HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/79/2013-14 dated 27.09.2013

The complainant's husband had taken 3 Pension policies from the Respondent-Insurer in 2011. At the time of taking the policies (alleged), the complainant's husband was suffering from multiple diseases and was blind in his right eye and he was not in a position to understand the features of the policy or the policy conditions. The policies are vitiated and therefore, liable to be cancelled. Therefore, the complaint.

The complainant submitted that for the last few years, her husband is suffering from Progressive Supraneuclear palsy (PSP), Parkinson's disease, diabetic retinopathy and other ailments. Even prior to the inception of the policies, he was not in a position to understand things properly. Making use of his deteriorating mental and physical condition, he was trapped into taking the policies. There is element of cheating in issuing the policies. The complainant is entitled to receive refund of premiums on behalf of her husband, who is physically and mentally incapacitated.

The insurer submitted that all the three policies were issued to the husband of the complainant on the basis of the proposal forms duly signed and submitted by him. He had signed the declaration in the proposal forms to the effect that he had read and understood the policy conditions. There is no ground for cancellation of the policies. The allegations are without any reliable evidence. The complaint is only to be dismissed.

Decision:- All the legal principles relating to general contract are applicable in the case of a contract of insurance. An added feature of a contract of insurance is 'Good faith'. Good faith is to be shown by the insured as well as the insurer. The medical evidence is to the effect that the complainant's husband was blind in the right eye and he was suffering from Diabetic Retinopathy, defective vision in the left eye, Parkinson's and PSP at the time of taking the policies. PSP is a chronic disease of the central nervous system Medical evidence would reveal that the husband of the complainant was undergoing continuous treatment atleast from 2008 onwards. There is evidence that he had occasional psychiatric consultations also. He was mentally and physically incapacitated. Immediately prior to the alleged issuance of the policies in July 2011, he had undergone hospitalisation at CMC, Vellore. The ailments had adversely affected his mental and intellectual faculties and he was not in a position to give free consent so as to enter into a contract of insurance. A contract entered into without free consent is vitiated. The circumstances would also reveal that the Insurer did not act in good faith. So, all the three policies are vitiated. They are liable to be cancelled. In the result, an award is passed directing the Respondent-Insurer to cancel the 3 policies involved in the complaint and provide refund of premiums paid in the policies to the complainant. The complainant is allowed to receive refund of premiums for and on behalf of the policyholder. The payment shall be made within the period prescribed failing which, the amount shall carry interest @ 9% from the date of filing of the complaint till payment is effected. No cost.

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<u>OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI</u>

Complaint No. IO/KCH/LI/21-005-177/2013-14

Pushpa V Shenoy

Vs

HDFC Std Life Insurance Co. Ltd

AWARD No. IO/KCH/LI/80/13-14 dated 30.9.2013

The complainant had taken 14 policies from the Respondent-Insurer spending all her monies, under the influence of HDFC Bank Manager. Due to illness and financial problems of her husband she could not remit the subsequent premiums. Her request for surrender of the policies was rejected by the insurer. Therefore, the complaint.

The complainant submitted that she took policies on the definite understanding that all the policies were single premium policies. She had been cheated by the Officers of the Insurer and the Bank Manager. Regular premium policies were issued to her on account of mis-selling and misrepresentation. Those policies are vitiated and she is entitled to refund of the premiums paid by her. She is limiting her claim to Rs. 20 lacs.

The insurer submitted that the complainant had applied for 3 policies in Dec. 2010 and the other 11 policies were taken in 2011. In all the policies, she had paid only the initial premium. On account of non-payment of further premiums, all the policies had attained 'Lapsed' status. It is not true to state that the complainant had been misled by the Officers of the Insurer. The allegation of mis-selling made by the complainant is without any basis and she had not succeeded in making out any ground which would vitiate the contract of insurance.

Decision:- For a valid contract, free consent of the parties to the contract is essential.If the consent was obtained fraudulently by making misrepresentation, the contract will be vitiated.Coercion, undue influence, etc are also vitiating circumstances affecting the validity of the contract. When allegations of mis-selling, misrepresentation, undue influence etc are alleged, the burden of establishing the existence of those circumstances is on the person making those allegations. But the burden is not as heavy as in a criminal case. Existence of the vitiating circumstances need not be established beyond reasonable doubt. The person need only establish the existence of vitiating circumstances by the Rule of Preponderance of probability. As per the available evidence, the complainant is basically a housewife. Except in the policy issued under Classic Pension Insurance plan, in all the 13 policies issued under Savings Assurance plan, the premium paying term is 10 years. The complainant is a Sleeping Partner in the transportation business being run by her husband. Now we have to consider whether she has sufficient financial background to pay yearly premium amounting to more than Rs.22 lakhs. In this connection it is to be remembered that the Respondent-Insurer is not doubting the quantum of annual income stated by the complainant in the proposal forms. The fact that the complainant did not make payment of further premiums also assumes importance in this circumstance.

The insurer has produced a financial statement signed by the complainant showing her various sources of income. Ironically enough, even in that statement, the total declared annual income is stated as Rs. 8 Lakhs. It is stated therein that by sale of properties, the complainant had received Rs. 50 Lakhs. Even if it is found that she had derived Rs.50 Lakhs towards sale consideration, that amount is not sufficient for payment of further premiums amounting to more than Rs. 22 Lakhs for a period of 10 years. It is idle to think that a person who had no regular source of income would invest more than Rs. 22 Lakhs in regular premium policies inviting burden to pay yearly premium of like amount for a further period of 9 years . The intention of the complainant at the time of taking the policies can be gathered from these circumstances. In all probability, the complainant would not have intended to take regular premium policies where her annual financial burden towards premium payment would be more than Rs. 22 Lakhs. This is a definite circumstance which would support the case of the complainant that she wanted only single premium policies. So, the inference that can be drawn from these facts and circumstances is that the complainant would not have willingly given her free consent for issuing regular premium policies. In all probability, the complainant wanted single premium policies. Insurer submitted that they have received a representation from the complainant on 31.01.2012 wherein the complainant had admitted that she had purchased insurance policies after fully knowing the terms and conditions. That admission does not lead to the conclusion that she had applied for regular premium policies. There is no mention in the said letter that she had applied for regular premium policies and she had understood the terms and conditions relating to such policies. The evidence and circumstances available in favour of the complainant over shadow the so-called effect of the admission made by the complainant in the letter received by the Insurer on 31.01.2012. The circumstances are sufficient to prove the case of the complainant by applying the Rule of Preponderance of probability. The circumstances would lead to the conclusion that the complainant had not given her free consent for the issuance of regular premium policies. Mis-selling of the policies is evident. These circumstances are sufficient enough to vitiate the policies issued to the complainant. By virtue of Rule 16(2) of the RPG rules, the pecuniary jurisdiction of this Forum is limited to Rs. 20 Lakhs. The complainant also had limited her claim to Rs.20 Lakhs in the complaint. As the policies are vitiated on account of mis-selling and lack of free consent, they are liable to be cancelled. In the result, an award is passed directing the Respondent-Insurer to cancel the 14 policies The Insurer is further directed to refund the premium paid by the complainant in the policies subject to a maximum of Rs. 20 Lakhs. The payment shall be made within the prescribed period failing which, the amount shall carry interest at 9% per annum from the date of filing of the complaint (21.05.2013) till payment is effected. No cost.

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KOLKATA

OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**508/22//003/L/07/2012-13**
Nature of Complaint	**:**	**Refund of premium**
Category under RPG Rules, 1998	**:**	**12 (1) (c)**
Policy No.	**:**	**C673937982**
Name & Address of the Complainant	**:**	**Shri Byomkesh Bhanja,** **Vill. Hamirpur, P.O. Depal,** **District: Purba Medinipur,** **Pin: 721 453.**
Name & Address of the Insurer	**:**	**Tata AIA Life Insurance Co. Ltd.,** **Legal Department,** **5th Floor, "Chowringhee Court",** **55, Chowringhee Road,** **Kolkata – 700 071.**
Date of hearing	**:**	**8th May, 2013**
Date of Order	**:**	**10th May, 2013**

AWARD

This petition is filed by the complainant against the decision of Tata AIA Life Insurance Co. Ltd., to deny refund of premium under the policy no. C673937982 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and verified the documents submitted to this forum. The complainant has approached this forum against the decision of the insurance company not to allow free look cancellation of the policy. The complainant has alleged mis-selling of the five policies, two of which have already been cancelled by the company. Regarding the 3rd policy, bearing no.673937982, which was sold on similar terms and conditions, the insurer has not accepted the request as his request was beyond free look cancellation period. .However, we find that the delay was just one and half month which is fairly marginal. Under the circumstances, the decision of the company is not justified. We accordingly direct the insurance company to cancel the policy and refund 90% of the premium on ex-gratia basis within 15 days of receiving this order along with consent letter.

The complaint is partially allowed.

(MANIKA DATTA)

INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**522/22//003/L/07/2012-13**
Nature of Complaint	**:**	**Refund of premium**
Category under RPG Rules, 1998	**:**	**12 (1) (c)**
Policy No.	**:**	**U175457588**
Name & Address of the Complainant	**:**	**Smt. Chhya Pal,** **Talar Par (N), Ward No.13,** **P.O. Arambagh, P.S. Arambagh,**

		Behind Milan Sangha Club, **District: Hooghly – 712 601.**
Name & Address of the Insurer	**:**	**Tata AIA Life Insurance Co. Ltd.,** **Legal Department,** **"Chowringhee Court", 5th Floor,** **55, Chowringhee Road,** **Kolkata – 700 071.**
Date of hearing	**:**	**8th May, 2013**
Date of Order	**:**	**10th May, 2013**

AWARD

This petition is filed by the complainant against the decision of Tata AIA Life Insurance Co. Ltd., to deny refund of premium under the policy no. U175457588 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard the representative of the insurance company, considered the written submission of the complainant and verified the documents submitted to this forum. The complainant has approached this forum against the decision of the insurance company not to allow free look cancellation of the policy. From the facts presented to this forum, we find that the complainant had purchased the policy on 25.110.2011 on payment of premium of Rs.30,000/-. She had wanted to take a policy for short term of three years but the company issued a policy for 15 years which she is not in a position to continue. Therefore, she immediately wrote a letter dated 11.05.2012 to the insurance company expressing her inability to continue the policy due to financial problems. In her letter to the insurer, she had expressed her concern about signature mismatch and her inability to continue the policy for a term of 15 years. This reason was adequate enough for cancellation of the policy as she was not satisfied with the period of the policy. Moreover, we find that the acknowledgement (POD) filed before this forum contains some alterations and cuttings, which creates serious doubt about the exact date of delivery.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the exact date of delivery could not be established by the insurer. Giving a benefit of doubt to the complainant, we accept her version and find that the request was made within the free look cancellation period. We accordingly set aside the decision of the Insurer and direct them to cancel the policy and refund the premium within 15 days of receiving this order along with consent letter.

The complaint is allowed.

INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**670/22/010/L/08/2012-13**
Nature of Complaint	**:**	**Refund of premium**
Category under RPG Rules 1998.	**:**	**12 (1) (c)**
Policy No.	**:**	**19735928**
Name & Address of the Complainant	**:**	**Shri Dew Prasad Mandal, Co-Operative Colony, Plot No.80, Bokaro Steel City, P.O. Bokaro, District: Bokaro, Jharkhand – 827 001.**
Name & Address of the Insurer	**:**	**Reliance Life Insurance Co. Ltd., 9th & 10th Floor, Building No.2, R-Tech Park, Nirlon Compound, Next to Hub Mall, Behind I-Flex Building, Goregaon (East), Mumbai – 400 063.**
Date of hearing	**:**	**10th April, 2013.**
Date of Order	**:**	**12th April, 2013**

AWARD

This petition is filed by the complainant against the decision of Reliance Life Insurance Co. Ltd. to deny free look cancellation of the policy no.19735928 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and examined the documents submitted to this forum. The complainant has approached this forum alleging mis-selling of the policy by the agent. He however, could not substantiate his allegation with any satisfactory evidence. From the facts presented to this forum, we find that the complainant is 56 years old school teacher having an annual income of Rs.1.50 lakhs. He has taken 11 policies from different insurers out of which he has three existing policies taken from Reliance Life Insurance Company. Thus, it is clear that he is an insurance minded person and has been acting as per the guidance of the agents. It is further seen that the policy documents were received by him in February, 2012 but he applied for cancellation of the same on 18.06.2012. The complainant has pleaded that he is not capable of paying the regular premium under his policy but that cannot be a ground of cancellation of the policy. The delay in submission of his request is about four months after the expiry of free look cancellation period. His allegation of misselling remains unsubstantiated and his argument fails as he is in the habit of purchasing policies. Mis-selling can take place on one or two occasions and not repeatedly.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that mis-selling has not been established in this case. The complainant has repeatedly purchased several policies and therefore, there is no ground for alleging mis-selling of the policy in this particular case. He has approached the company after expiry of the free look cancellation period and therefore, company's decision not to refund the premium is correct and the same is upheld. The complaint is dismissed. However considering his financial condition and inadequate sources of funds to finance 11 policies,

we allow refund of 80% of the premium on ex-gratia basis. The company is directed to refund the above amount within 15 days of receiving a copy of the order along with the consent letter.

(MANIKA DATTA)
INSURANCE OMBUDSMAN

OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	:	**789/22/005/L/09/2012-13**
Nature of Complaint	:	**Refund of premium**
Category under RPG Rules 1998.	:	**12 (1) (c)**
Policy Nos.	:	**14872800, 14944553, 14842487 & 14869252**
Name & Address of the Complainant	:	**Smt. Shyamali Dasgupta, Dakshinpara Nurnagar, Deganga, North 24-Parganas, Bishupur, Kolkata – 743 423.**
Name & Address of the Insurer	:	**HDFC Standard Life Insurance Co. Ltd., Eureka Towers, 5th Floor, Mindspace Complex, Link Road, Malad (W), Mumbai – 400 064.**
Date of hearing	:	**4th April, 2013.**

Date of Order : 5th April, 2013

AWARD

This petition is filed by the complainant against the decision of HDFC Standard Life Insurance Co. Ltd., not to refund the premium under the policy nos. 14872800, 14944553, 14842487 & 14869252 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and examined the documents submitted to this forum. The complainant has approached this forum with allegation of mis-selling of four policies by the sales person of the company. From the facts presented to this forum, we find that the complainant is the owner of a proprietorship concern with declared annual income of Rs.6.00 lakhs. This fact is not disputed by her. She has taken four policies from the insurer during January to February 2012 on investment of Rs. 4.00 lakhs. She has alleged that she was misled by the sales person who had assured her that she would get very good return from these policies and additional funds in certain lapsed policies with another insurance company would be recovered. However, the complainant failed to substantiate her allegation of mis-selling with any satisfactory and convincing evidence. The policies were issued on the basis of the proposal forms and other documents submitted by the policyholder. The insurer has submitted copies of the proposal forms from which we do not find any evidence of misselling except that the proposal form no.14869252 submitted by Rajesh Dasgupta, son of the complainant, was not signed by him. The proposal was, therefore, not authenticated and the policy based on this defective proposal form is not valid and needs to be cancelled. Regarding the other three policies, we find that these were issued on the life of the complainants with her valid signatures. She had also signed the benefit illustrations which showed the complete details of the premium, the policy term and the amounts payable on maturity and surrender. The complainant is an educated lady and is running an independent business. Moreover, she is knowledgeable about insurance

matter as she purchased policies from Metlife Insurance Co., which she wanted to discontinue and recover her funds. This was a private arrangement not supported by the company.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that the allegation of the mis-selling is not established in this case. Since she applied for free look cancellation after 4-5 months of receiving the policy bonds, the decision of the insurance company is correct and the same is upheld. However, the policy no.14869252 with premium of Rs.99,999/- which was taken on the life of the son is to be cancelled and the insurer is directed to refund the premium of Rs.99,999/- to the complainant within 15 days of receiving this order along with consent letter.

The complaint is partially allowed.

(MANIKA DATTA)

INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER

Complaint No.	**:**	**895/22/002/L/09/2012-13**
Nature of Complaint	**:**	**Refund of premium**
Category under RPG Rules, 1998	**:**	**12 (1) (c)**
Policy No.	**:**	**49003595307**
Name & Address of the Complainant	**:**	**Shri Ashis Chakrabarty, 30/14, Atapara Lane,**

		Sinthee, **Kolkata – 700 050.**
Name & Address of the Insurer	**:**	**SBI Life Insurance Co. Ltd.,** **Central Processing Centre,** **Kapas Bhavan, Plot No.3A, Sector – 10,** **CBD Belapur,** **Navi Mumbai – 400 614.**
Date of hearing	**:**	**16th April, 2013**
Date of Order	**:**	**17th April, 2013**

AWARD

This petition is filed by the complainant against the decision of SBI Life Insurance Co. Ltd., to deny free look cancellation of the policy no. 49003595307 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and examined the documents submitted to this forum. The complainant has approached this forum alleging mis-selling of the policy issued by the SBI Life Insurance Co. Ltd., on payment of premium of Rs.99,000/-. We find that the policy was issued on the basis of duly filled in and signed application form for a S.A. of ten times of the policy. The complainant could not produce any documentary evidence to substantiate mis-selling. However, we find that he applied after 2/3 days of receiving the policy documents to the insurance company vide his letter dated 18.03.2011 in which he had expressed his dissatisfaction with the S.A. of the company and requested them to change the same. He had also clearly mentioned that in case, the policy could not be changed, then he would like to surrender the policy. Thus from this letter it is absolutely clear that the policyholder was not satisfied with the terms and conditions of the policy and wanted to discontinue it. From our interaction, we find that the complainant is not aware of the difference between surrender and cancellation of the policy. By surrendering he had meant cancellation of the policy. Since his request was lodged within the free look

cancellation period, the decision of the company not to refund the premium is not justified and the same is set aside. We accordingly direct the insurance company to cancel the policy and refund the premium within 15 days of receiving this order along with consent. The complaint is allowed.

(MANIKA DATTA)

INSURANCE OMBUDSMAN

OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**1052/22/004/L/10/2012-13**
Nature of Complaint	**:**	**Refund of premium**
Category under RPG Rules, 1998	**:**	**12 (1) (c)**
Policy Nos.	**:**	**16898576, 16898898 & 16899154**
Name & Address of the Complainant	**:**	**Shri Subhash Chandra Kundu,** **Holy Nest Apartment, Flat No.317, 3rd Floor,** **7, T.N. Biswas Road, P.O. Alambazar,** **Kolkata – 700 035.**
Name & Address of the Insurer	**:**	**ICICI Prudential Life Insurance Co. Ltd.,** **Legal Department,** **Vinod Silk Mills Compound,** **Chakravarthy Ashok Nagar,** **Ashok Road, Kandivali (East),** **Mumbai – 400 101.**
Date of hearing	**:**	**22nd April, 2013.**

Date of Order : 23rd April, 2013

AWARD

This petition is filed by the complainant against the decision of ICICI Prudential Life Insurance Co. Ltd., to deny refund of premium under the policy nos. 16898576, 16898898 & 16899154 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and examined the documents submitted before this forum. The complainant has approached this forum against the decision of the company to deny the free look cancellation of the policies. From the facts presented to this forum, we find that the complainant has purchased three policies; 2nd policy on 08.08.2012 and 3rd policy on 21.08.2012. He has alleged mis-selling of the policies by the ICICI Bank who took advantage of prolong illness and diverted his fund into policy which he did not intend to take. He has produced sufficient medical documents to support his contentions. However, he could not produce any documents to support his allegations of mis-selling. From the POD submitted by the insurance company, we find that the consignment was received by Shri Asish Jana and one by Shri Ashish Chakraborty who are not known to the complainant. The complainant has stated that he received these policies from his letter box and after going through them, he immediately submitted his letter for cancellation of the policies within the free look cancellation period. Since these policies were delivered to a person other than the policyholder this cannot be treated as a valid delivery. The complainant has otherwise submitted his letter within one and half months of the receiving date mentioned in the PODs which cannot be taken as the actual date of the delivery.

After careful evaluation of all the facts and circumstances of the case, we are of the opinion that mis-selling is not established in this case. However, considering that the policies were not delivered to the policyholder and the complainant had quickly submitted his request for cancellation of the policies, the decision of the company is not

justified. They are directed to cancel the policy and refund the premium within 15 days of receiving this order along with consent letter.

The complaint is allowed.

(MANIKA DATTA)

INSURANCE OMBUDSMAN

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OFFICE OF THE INSURANCE OMBUDSMAN,
HINDUSTHAN BLDG. ANNEXE, 4TH FLOOR,
4, C.R. AVENUE, KOLKATA – 700 072

AWARD IN THE MATTER OF

Complaint No.	**:**	**896/22/005/L/09/2012-13**
Nature of Complaint	**:**	**Refund of premium**
Category under RPG Rules, 1998	**:**	**12 (1) (c)**
Policy No.	**:**	**15032449**
Name & Address of the Complainant	**:**	**Mst. Hasna Banu,** **Vill. Kashiara, P.O. Radhakantapur,** **P.S. Memari,** **District: Burdwan,** **Pin: 713 146.**
Name & Address of the Insurer	**:**	**HDFC Standard Life Insurance Co. Ltd.,** **11, Floor, Lodha Excelus,** **Apollo Mills Compound,** **N.M. Joshi Marg, Mahalaxmi,** **Mumbai – 400 011.**
Date of hearing	**:**	**10th April, 2013**
Date of Order	**:**	**12th April, 2013**

AWARD

This petition is filed by the complainant against the decision of HDFC Standard Life Insurance Co. Ltd. to deny refund of premium under the policy no. 15032449 and the same has been admitted under Rules 12(1)(c) of the RPG Rules 1998.

Decision :

We have heard both the parties, considered their written submissions and verified the documents submitted to this forum. The complainant has approached this forum alleging mis-selling of certain policies by India Infoline Broking Firm. From the facts presented to this forum, we find that she was attracted by the offer of a free foreign tour or Rs.3.00 lakhs in cash. Looking at her educational and economic background it is clear that she has no knowledge of insurance matters and had acted under the misguidance of the broker. She has taken policies from other companies also and her total liability of premium is Rs.1.05 lakhs p.a. It is clearly impossible for her to pay this amount out of her meager salary. The broker did not make a need analysis before giving the offer and the underwriter did not question her premium paying capacity. Under the circumstances the possibility of misselling cannot be ruled out. Moreover, she applied for cancellation of the policy within three months of receiving the same and considering that the POD is not available, the exact date of delivery cannot be established. We, therefore, direct the insurance company to cancel the policy and refund the premium within 15 days of receiving this order along with consent letter.

The complaint is allowed.

(MANIKA DATTA)
INSURANCE OMBUDSMAN

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LUCKNOW

Lucknow Ombudsman Centre

Complaint No.: L-607/21/001/2012-13

Award No.-IOB/Lko/148/001/13-14

Ashish Kumar Singh Vs. LIC of India,

Award dated: 01.07.2013

DAB

Facts : Sri Ashish Kumar Singh had taken a policy for Sum assured of Rs 3,00,000 on 27.12.2005. Unfortunately the L.A died on 26.06.2011 due to head injury. Claim was preferred by the complainant nominee, husband of the deceased life assured. The DAB claim was repudiated by the respondent insurance company on the ground that death had occurred due to head injury caused due to Epileptic fit and not due to accident.

<u>Findings:-</u> In order to substantiate the claim it was observed that the late life assured died due to head injury caused due to Epileptic fit. Question was raised whether it was accident or a natural death. The respondent insurance company submitted that FIR and Panchnama in which complainant was also one of signatory confirming that the DLA was a patient of Epileptic fit and was taking treatment . The certificate issued by G.M & Associated college Hospital Lucknow also given their opinion that cause of death was " head injury with very low general condition"

Decision: It was observed by the forum , that the death due to accident is not proved conclusively so DAB is not payable.

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MUMBAI CENTRE

LIFE INSURANCE-MISC CASES

Complaint No. LI – 371 (12-13)

Complainant: Mr. Ramchand Nagrani

V/s

Respondent : Bajaj Allianz Life Insurance Company Ltd

Award dated 01.09.2013

Mr.Ashwin Nagrani had bought 5 policies in August 2007,policy no.'s being 0062994590, 0063030075, 0063032753, 0063033084 and 0063033538 from Bajaj Allianz Life Insurance Company Ltd where he had paid premium of Rs. 3 lakhs under each policy. The policies were not dispatched to him on his given address but were given to Mr. Mansukhraj Singh at the fort branch who handed over the policies to his father, Mr. Ramchand Nagrani though no such request was made by him. He received the policy in 2nd week of November i.e. well after the free look period. He made a complaint to the insurer that since he had paid premiums in August 2007, it is wrong on the part of the company to allot him NAV of October 2007. Hence he requested them to either allot him NAV of August 2007 or refund him his premiums paid. Since he did not receive any response from them, he made several follow-up. But Bajaj Allianz Life Insurance Company Ltd. stood by their decision of allotting the NAV of October 2007 to his policies

Aggrieved by their response, Mr. Ashwin Naagrani had authorized his father Mr Ramchand Nagrani to approach the Office of insurance Ombudsman seeking intervention in the matter of settlement of his grievance.

After perusal of the records, parties to dispute were called for hearing on 04.07.2013.

Ombudsman observed that the mother of the policyholder was the agent under the policies

The entire documents submitted to the forum are taken on record.

There are certain issues which has come to my notice from the documents submitted to this forum as well as from the oral deposition that took place on 04.07.2013 and the same has been reproduced below:-

1) **Though the complainant, Mr. Ramchand Nagrani has alleged that they have sent letter dated 23.11.2007 to Jimmy Panthaki for updating his NAV and in case if that is not possible then to cancel the policies and refund them the premium amount, the company has informed the forum vide letter dated 28.08.2013 that they have not received the same. It is also seen from the copy of letter submitted to this forum by the complainant that there is no acknowledgment of receipt of the same by the company or its representative. The complainant has also not provided any evidence to prove that this letter was delivered to the company or its authorized representative.**
2) **Mr. Ashwin Nagrani in his letter to the forum dated16.05.2012 has informed the forum that Mr. Deepak Deshpande , Deputy Area Manager of Bajaj Allianz Life**

Insurance Company Ltd. had promised that his case would be issued in a day's time on a preferential basis and NAV would be as per the date of login i.e. Rs. 13.27 in Equity Growth funds (in case of 4 policies) and Equity Index fund -II in the case of remaining one policy. However he has not produced any sustainable documentary evidence to prove the same. As far as email exchanged between Mr. Jimmy to Mr. Amit Roy is concerned which is regarding action to be taken for allocating correct NAV , this email does not hold much significance for the following reason:-

The Total Sum Assured under all the policies of Mr. Ashwin Nagrani worked out to be Rs. 1.5 cr. As per the underwriting rule of the company, they had called for Medical requirements. The last medical report towards the policy was completed on 19.10.2007.Thereafter the proposals were forwarded to Re-insurer and the company received confirmation from reinsurer on 25.10.2007. Since the confirmation from reinsurer was received after 3.00 pm on 25.10.2007, NAV of 26.10.2007 was allotted to his policies. Thus contention of Mr. Ramchand Nagrani that wrong NAV was allotted to him cannot be justified. However the company should have taken immediate steps to explain the reason for issuance of NAV of 26.10.2007 to the complainant, which unfortunately was not done.

3) **The most important factor is that the agent, Mrs. Sunita Nagrani, who is mother of the policyholder and also qualified member of prestigious Bajaj Allianz Promising Club 2007-2008, have not done her duty well. As an advisor under the policies, it was her duty to explain to Mr. Ashwin Nagrani that issuance of policies was delayed for want of medical requirements. She should have also made him understand that under ULIP policies, amount paid by proposer are kept in deposit till completion of all requirements and NAV of that date is allotted when all the requirements under the policy is complied with. If she would have been able to convince this matter to her son, probably he would not have escalated his complaint to this forum. Mr. Ramchand Nagrani has informed the forum that the policies were hand delivered to him by Mr.Mansukh Singh in the second week of November. Mr. Manusukh Singh is STM (Sales Team Manager) under whom Mrs Sunita Nagrani is IC (Insurance Consultant). Neither the company has any proof of delivery of the policy document to the complainant nor has the complainant Mr. Ramchand Nagrani been able to produce any evidence to this forum to prove that policies were received by him in the 2nd week of November. To resolve such dispute involves detailed investigations which could not be held in the summary proceedings under the provision of the RPG Rules 1998. However here I observe that the agent Mrs. Sunita Nagrani had all opportunity to guide Mr. Ashwin Nagrani in cancelling the policy during free look period, if he was not satisfied with the terms and conditions of the policies since being an advisor ,there is no reason to believe that she was unaware that the free look period starts from the date of receipt of the policy document by the policyholder himself or by a person authorized by him .**
4) **Also being educated person, Mr. Ashwin Nagrani should also have himself gone through all the documents and should have utilized the 15 days free look period to cancel the policies which of course had not been done.**

I therefore do no find sufficient grounds to establish that wrong NAV was allotted to the policies issued to Mr. Ashwin Nagrani by Bajaj Allianz Life Insurance Company Ltd and

his request to cancel the policies and refund him the premium amount does not seem to be fair and just.. Under these circumstances, I hold that the complainant Mr. Ramchand Nagrani cannot be granted any relief from this forum.
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Complaint No.LI- 710 (2012-2013)
Complainant: Shri V. Subramanian
v/s.
Respondent: ICICI Prudential Life Insurance Company Ltd.

<u>Award dated 19.06.2013</u>

Shri V. Subramanian had taken Hospital care plan policy no. 06650122 from ICICI Prudential Life Insurance Company Ltd. on 17/12/2007. Shri V. Subramanian was admitted to Joy Hospital on 15-05-2012 for Colonoscopy for which he incurred expenses of Rs. 1 Lakh.. After his surgery, when he filed claim with the company , they rejected his claim on the ground that he had not stayed in the hospital for 2 consecutive nights and not charged for a minimum of 2 consecutive days bed/room charges. When he again represented his case to the company, for Surgical Benefit, they replied him that since he has not undergone any surgery, surgical benefit cannot be paid to him.

Aggrieved by this decision, Shri V. Subramanian approached this Forum for redressal of his grievance. After scrutinizing the records produced to this Forum, parties to the dispute were called for hearing

All the documents submitted before the forum has been scrutinized. ICICI Prudential Life Insurance Company Ltd. rejected his claim under the following terms and conditions of the Policy:-

- **<u>Section 2(a) Daily Hospital Cash Benefit</u> states that "this benefit is payable where the Life Assured has been Hospitalized for a continuous period in excess of 24 hours i.e. the life assured stays in the hospital for atleast 2 consecutive nights and is charged for a minimum of 2 consecutive days bed/room charges. The benefit shall be payable from the first day of hospitalization". The company has stated that the complainant was admitted and discharged on the same day i.e. 15.05.2012 which is also evident from the discharge summary of Joy Hospital Thus the said hospitalization does not fulfill the condition for processing the Daily Hospital Cash benefit and hence this benefit was not paid to him.**
- **<u>Section 2(c)(i) Surgical Benefit</u> states that "this benefit is payable where the life assured has undergone any of the surgical procedures covered under the policy for a medically necessary treatment provided to the life assured during a period of hospitalization. The surgeries covered under the policy are classified on the basis of severity of the surgery and are Graded 1 to 4 where Grade 1 denotes surgeries with least severity and grade 4 denotes surgeries with highest severity." Section 2 (c) (iii) states that "proof of life assured having actually undergone the surgery is required to be submitted." Company has informed the forum that complainant had undergone a diagnostic procedure "Colonoscopy" which is not covered in the Surgery List of the hospital care policy. The List of Surgeries in Grade 2 includes "Colonoscopy, fibreoptic with removal of polyps" which is therapeutic procedure. However as per the discharge summary of Joy**

Hospital submitted by the complainant, he has undergone Colonoscopy as investigative procedure, hence he is not eligible for surgical benefit.
The forum observed that there is no evidence that Colonoscopy undergone by the complainant involved any surgery. Also the complainant had no evidence to prove that any surgery was done on him. Thus Insurer cannot be faulted for denying to pay the claim under the policy for Surgical Benefit and the forum finds no reason to intervene in the decision of repudiation by ICICI Prudential Life Insurance Company Ltd.

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Complaint No.LI- 889 (2010-2011)

Complainant: Shri Shobha Devi Jain
v/s.
Respondent: Bajaj Allianz Life Insurance Company Ltd.

Award dated 10.09.2013

The complainant Mrs Shobha Jain had an account with Standard Chartered Bank and the bank officials had insisted her to purchase the policy no. 0084718110 on 05.02.2008.The policy was sold as single premium of Rs. 5 lakhs and for Sum Assured of Rs. 25 lakhs. Premium was apportioned as 80% towards Equity Growth Fund and balance 20% towards Bond fund as per request given by policyholder in the proposal form. On 09th June ,2008 she had given request to switch over from Equity fund to Bond Fund which was done by the company. When she received renewal premium notice, she realized that annual premium policy was sold to her. She then informed the company that she cannot afford to pay premium of Rs. 5 lakhs . The company officials gave her the option to reduce the premium to Rs. 25000 and asked her to deposit Rs. 25,000/- for 2 years .Also the sum assured was reduced from Rs.25 lakhs to Rs 1,25,000/- . However she realized that administrative charges were levied as per Sum Assured of Rs. 25 lakhs instead of Rs. 125000/- Sum Assured. Also she came to know subsequently that on 25.07.2008, the company had switched over her fund back to Equity without her request which led to capital erosion. She immediately wrote to the company about it and company accepted their mistake and agreed to convert the fund into Bond fund. However the company didn't compensate her the loss due to unasked switching of funds done on 25.07.2008 and also they continued charging Policy Administrative charges on old sum assured .She followed up with the company repeatedly to compensate her for the loss suffered due to unasked switching and also to refund her excess policy administrative charges debited after reduction of sum assured. However company did not accede to her request.

Aggrieved by their decision, the complainant, Smt. Shobha Jain approached the office of Insurance Ombudsman seeking intervention in settlement of her grievance.

After perusal of the records, parties to dispute were called for hearing on 26.06.2013. The company representative stated that, charges were deducted from the complainant's policy

account in accordance with section 33 a (i), (ii) and (c) of terms and conditions of the policy. Company has debited mortality charges of Rs. 1454.69 pm before reduction of Sum Assured and after reduction of Sum Assured; it has been reduced to Rs. 99.89 pm. As far as policy Administration Charges are concerned, it is charged at 1.75% pa of Sum assured and is deducted each month(i.e. Rs 3645.83) and this charge is not subject to revision. Hence company has continued to debit Rs. 3645.83 every month. On hearing the deposition of both the parties to dispute, Ombudsman observed that Section 33 (c) states that 1.75%p.a.of Sum assured will be charged as administration charges throughout the term of the policy. However no where in the policy it is mentioned that when sum assured will be reduced, the administration charges will still be continued to be debited on original sum assured.

It is observed that inspite of reduction in sum assured the Administrative Charges of 1.75% was continued to be debited on old sum assured of Rs. 25 lakhs instead of new sum assured of Rs. 1,25,000/-. As per policy terms and condition, it is stated that "Policy administration Charges of 1.75% is not subject to revision" which implies that the same rate will be continued throughout the term of the policy. Nowhere is it mentioned that irrespective of the change in sum assured, the charges will be continued on the original sum assured. The company failed to clarify the logic behind their arbitrary decision without giving any clarification/reference in their policy document. There cannot be any scope for the company to frame policy conditions in a manner which give the company an edge when it comes to interpretation. In fact when asked, the company representative failed to provide appropriate explanation to clear any doubts on this matter. Hence instead of Rs. 3645.83 debited every month as policy administrative charges they should have deducted Rs. 182.29 , which unfortunately was not done. It is highly impractical and unfair on the part of the company to charge policyholders with administration charges on original sum assured when the sum assured has been reduced subsequently

Bajaj Allianz Life Insurance Company Ltd. is directed to comply with the following requirements under policy no.0084718110 on the life of Mrs. Shobha Jain:-

1) **Company is directed to debit Policy Administrative Charges at reduced Sum Assured from the policy anniversary after the receipt of request for reduction in the premium amount . Excess amount of Policy Administrative charges debited on the original sum assured after the receipt of such request for premium reduction to be refunded to the policyholder.**
2) **Service tax to be charged on the reduced Policy Administrative Charges from 2nd year onwards and excess amount debited to be refunded to the policyholder.**
3) **Company has voluntarily switched over the fund from Bond to Equity on 25.07.2008 .In the absence of any request for fund switch over from the complainant, the action of the company is inappropriate and has resulted in loss for her. Company is directed to reverse this transfer action and give appropriate credit as if the fund has not been transferred at all. Any Service Tax charged inappropriately during this transfer process will be borne by the company.**
4) **Bajaj Allianz Life Insurance Company Ltd. is directed to recalculate the units taking into account the above points and arrive at the fund value and inform the customer accordingly.**

Complaint No. LI – 1199 (12-13)

Complainant: Shri Uttam Rangnekar.
V/s
Respondent : Life Insurance Corporation of India

Award dated 06.08.2013

The complainant Mr. Uttam Rangnekar had purchased Jeevan Akshay VI plan from LIC on 23.07.2010 by paying premium of Rs. 5 lakhs. However even before the receipt of the policy document, on 06.09.2010 he had given request for cancellation of the policy. He received the policy document on 04.10.2010. On 05.10.2010, he again reminded the company that he needed the refund of premium of Rs. 5 lakhs for his daughter's higher studies. Since he didn't receive any response from LIC, he contacted the Branch Office and thereafter the Divisional Manager, who asked him to give consent for surrender value and informed him that nominal charges will be deducted from his amount. He finally gave his consent for surrender value on 02.02.2011. He also requested penal interest be paid for delay in payment of capital amount. On 14.03.2011, he received a cheque of Rs. 4, 75,000/- deducting Rs. 25000/- as charges. He again represented the case for penal interest .LIC paid him penal interest of Rs. 3852/- but they had not informed him for which period the interest was paid. His contention was that penal interest should be given from the date he had deposited the cheque of Rs. 5 lakhs with LIC as LIC has not paid him any annuity or interest on his money lying with them. He pleaded for refund of Rs. 25000/- and 12% interest for delayed payment.

LIC informed the forum that the complainant had approached Br. 88M vide letter dated 06.09.2010 for cancellation of the policy. As reason for cancellation was mentioned as "money required for further studies of his daughter", surrender was disallowed .When the complainant represented his case, the matter was referred by branch office to the divisional office wherein surrender request was considered by Western Zonal Office as a special case. Surrender amount paid of Rs. 4,75,000/- was paid to the complainant on 10.03.2011 .Further payment of penal interest was disallowed in March 2011 on the grounds that surrender value was paid as a special case . However subsequently the matter was reconsidered by the Standing Committee at the Divisional office wherein penal interest @8% on Rs. 4,75,000/- was sanctioned from date of receipt of discharge form i.e. 02.02.2011 to date of payment i.e. 10.3.2011 and they were not ready to refund Rs. 25000/- to him.

Aggrieved by this decision, Shri Uttam Rangnekar approached the Office of Insurance Ombudsman for redressal of his grievance.

After scrutinizing the records produced to this Forum, parties to the dispute were called for hearing on 17.07.2013 at 2.30 pm.

On hearing the deposition of both the parties to dispute, Ombudsman observed that since the complainant had requested for cancellation of the policy even before receipt of the policy document, LIC should have cancelled the policy under free look period. It was not correct on the part of LIC to take surrender request form and recover surrender charges from the complainant and grant him surrender as a special case. Also LIC should

have paid the penal interest from date of receipt of first letter for cancellation i.e. letter dated 06.09.2010 rather than giving it from date of receipt of surrender discharge form.
Hence LIC was directed to treat the policy as cancelled under free look period and pay the balance capital amount and also pay interest at the rate specified by IRDA from 06.09.2010 till date of issuance of cheque after deducting the necessary charges as applicable for free look cancellation and any other payments including penal interest already paid by them.
On 06.08.2013, the forum received email from LIC stating that they have made a payment of Rs. 24910 /-vide cheque no. 324927 dated 02.8.2013 towards additional Surrender Value and Rs. 26230.65/- vide cheque no. 324930 dated 3.8.2013 towards penal interest after deduction of IT and penal interest paid earlier.
As the dispute under the policy has been settled by LIC, the complaint is treated as resolved and closed at this forum.

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Complaint No. LI – 26 (2012-2013)
Complainant : Shri Ikbal Ebrahim
V/s
Respondent : Aviva Life Insurance Company India Ltd

Award dated 12.07.2013

The complainant Shri Ikbal Ebrahim has informed the forum that a person named Ms. Dilpreet Kaur Chandhok from IndusInd Bank called him on 03/2010 and requested for his appointment for sale of ULIP. Ms. Dilpreet had offered him ULIP on his life wherein he had to pay Rs. 3, 00,000 /-premiums for minimum period of 3 years and thereafter even if he doesn't pay the premium, the policy will be in continued for 10 years and after 5 years he can withdraw as per NAV. Ms Dilpreet Kaur collected personal data on plain paper and took signature on a form which was partly filled. The complainant wanted his wife to be nominee but she insisted that his son or daughter should be nominee and accordingly collected personal data, photograph and PAN card of his son Mr. Vaseem. Mr.Ikbal had insisted that the policy should be hand delivered to him. After 3 months i.e. on 12/07/2010, when Ms. Dilpreet and Mr Chetan handed over the policy to him, the complainant found that policy was issued in the name of his son and this discrepancy in the name of the policy holder was pointed out to them. Mr Ikbal immediately returned the document and took the signature of Mr. Chetan(company representative) who accepted it. As Ms Dilpreet Kaur didn't rectify the mistake and since she was not contactable, he visited insurance office where the officials informed him that Ms. Dilpreet had left the office and it was possible to rectify the name of the policyholder in the policy bond. He had asked Aviva officials to get a copy of proposal form signed by him, but the same was not traceable by them. The complainant then requested the officials that the policy be treated as single premium in the name of his son and amount be refunded after 3 years on which they requested him to get signature of his son on blank proposal form which was done by him. Thereafter he made several followup with company but they did not confirm whether they would accept his request or not. Hence he demanded

cancellation and refund of premium amount. However the company informed him that since policy was not cancelled during the free look period, they cannot accede to his request.

Aggrieved by their decision, Shri Ikbal Ebrahim approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of the claim.

After perusal of the records, parties to the dispute were called for a hearing on 06.06.2013 at 2.30 P.M. During the course of hearing, Mr. Ikbal has stated that annual income of his son is Rs 3 lakhs and the company has mentioned his income in the proposal form as Rs. 9 lakhs. Mr. Ikbal had informed the forum that during the process of follow-up for correction in name of the policy till the process of requesting refund, he met various officials viz Ms Dilpreet Kaur Chandok, Mr. Chetan Chanchad, Mr. Mohit Ramsinghani and Mr. Nishant Kohli and he has also produced copy of their visiting cards to the forum. The forum pointed out to the company representative the difference in signature of Mr. Vaseem on the proposal form as well on the letter given to the Aviva for third party cheque and asked him to confirm that signature in proposal form and in the letter was of the same person, the company representative told that there is variation and was not able to confirm that these signatures were of Mr. Vaseem only. The complainant also commented that no such letter for third party cheque was given by his son. During the course of deposition, the company representative had deposed that the company is ready to offer a single premium policy however he was not clear on the terms and conditions of the policy which would be offered to the complainant. The complainant pointed out that he had requested the company officials to convert the policy into single premium in 2010 and provide him the facility to withdraw the money after 3 years . Since three years period is over, now he wanted refund of his premium of Rs.3 lakhs and will not accept the offer of the company of converting the policy into single premium policy.

The documents received by the parties to the dispute have been perused and the analysis of the entire case reveals the following points:-

1) **The policy was canvassed to Mr. Ikbal Ebrahim but was fraudulently issued to his son Mr. Vaseem.**
2) **Mr. Vaseem was 37 years old at the time of proposal. The company has issued him a policy for a sum assured of Rs. 15 lakhs and premium of Rs 3 lakhs which he had to pay for 20 years. During the deposition the forum had raised a query to the company representative as to what type of proof of income was collected at the time of proposal by the company. The company representative replied that as per their underwriting practice, income proof is not required for this case. The forum then asked him how the company decided whether the policy holder really had the capacity to pay premium of Rs. 3 lakhs , to which the company representative had no reply. Thus in this case, prudent financial underwriting has been highly compromised. The complainant had also informed the forum that his son's annual income is only Rs. 3 lakhs whereas in the proposal form, it was wrongly mentioned as Rs. 9 lakhs.**

3) **There is difference in the signature of the policyholder in the proposal form and letter regarding third party cheque and the company has not taken cognizance of the same while underwriting the proposal.**
4) **When Mrs. Dilpreet Kaur of IndusInd Bank and Mr. Chetan from Aviva Life Insurance Company India Ltd. had delivered the policy to Mr. Ikbal on 12.7.2010, he noticed that there was difference in the name of the policyholder and this discrepancy was brought to their notice immediately. He also returned the policy to them and also took their acknowledgment. However neither the company took any action to rectify the name of the policyholder in neither the policy document nor the policy was cancelled by the company, though technically speaking the policy was returned by him during free look period.**

Thus it is evident that policy sold to Mr. Vaseem is a gross missale and on wrong promises. In this case, the policy was canvassed by bank official and it is observed that the customers of the bank generally go by the recommendations of the Bank Employee, since they have immense unquestionable faith in the bank with which they are customers for years. Generally this faith is exploited both by the employee of the bank and the representative of the Insurance company. In this case also, the intermediaries have not done their job properly and have misused the trust which the complainant had in the Bank and in Insurance Company. Also the insurer should verify all the details provided by the proposer at underwriting stage to ensure that genuine lives are insured. Unfortunately in this case it was not done. Hence the company has to make amends for the omissions and commissions of the intermediary and the underwriters.

Thus from the principles of natural justice and fairplay, I have to take that the complaint of Mr. Ikbal Ebrahim becomes a maintainable complaint before me and he deserves a relief from this forum in the form of cancellation of policy no SGA2911442 and refund of premium of Rs. 3.00 Lakhs paid by him.

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Complaint No. LI –226 (12-13)

Complainant: Shri Dilip Kute

V/s

Respondent : Bajaj Allianz Life Insurance Company Ltd.

Award dated 02.08.2013

Mr. Dilip Kute had taken Bajaj Allianz Family Care First policy no. 0118429550 from Bajaj Allianz Life Insurance Company Ltd. on 22.01.2009. He was admitted to the hospital on 15.10.2011 for dengue. Few days prior to his admission in the hospital, he had consulted his family doctor, Dr. Dhumare for his illness .Dr. Dhumare called the Pathological lab to collect Mr. Kute's blood sample from his clinic. After he was discharged from the hospital, he lodged the claim with Bajaj Allianz Life Insurance Company Ltd. The insurer rejected the claim on the grounds that there was discrepancy in the amount of deposit informed by Mr. Kute to the investigating officer of their company and the amount mentioned in the hospital receipt and also there were some overwriting of dates in the hospital records. Mr. Kute informed the insurer that he was not very sure of the deposit amount as it was paid by his wife and he has not claimed anything more than the bills given by the hospital. He also informed the insurer that the Investigating officers of Bajaj Allianz Life Insurance Company Ltd. had also enquired with his friends who had paid visit to him in the hospital as to whether he was hospitalized and to which hospital he was admitted. Inspite of his best efforts to convince the company officials, the Bajaj Allianz Life Insurance Company Ltd did not change their stand of rejection of the claim.

Aggrieved by their decision Shri Dilip Kute approached the Office of the Insurance Ombudsman seeking intervention in the matter for settlement of his complaint.

After perusal of the records, parties to the dispute were called for a hearing on 19.07.2013 at 2.30 p.m. During the hearing the company representative informed that the claim was rejected as there were many differences found in the medical reports submitted by the complainant and what was stated by the complainant and his wife to the investigating officer. She stated that the date of discharge was stated as 18.10.2011 by the complainant's wife whereas hospital records shows that he was discharged on 19.10.2011. She stated that they have certificate from Dr. Kamlesh Yadav, owner of Sai Siddhi Lab, which states that Widal test report dated 13.10.2011 pertaining to Mr. Kute was not issued from his lab. However the complainant had produced Widal test report issued from the same lab. Ombudsman informed her that the forum had a copy of receipt issued by SaiSiddhi dated 15.10.2011 wherein they have charged the complainant for Widal test also. She also stated that the complainant has informed the investigating officer that he was treated by Dr. Sunil Chaudhary whereas the hospital reports shows that he was treated by Dr. Sanjeev Sharma. Ombudsman asked the complainant which doctor treated him in the hospital, to this he said that two doctors have treated him, out which one was Dr. Sharma but he was not able to recollect the name of other doctor. Ombudsman asked Ms. Padmavathi whether their investigating officer have verified whether he was actually admitted to the hospital, to this she replied positively. Ombudsman also observed that difference in date of discharge and name of doctors is not sufficient ground for rejecting the claim under the policy .

On hearing the deposition of both the parties to dispute, Ombudsman observed that there was deficiency in the investigation done by the company .There were lot of issues which were overlooked by the investigating team . Also the grounds on which claim was rejected seemed to be baseless. The company representative stated that her company is ready to settle the admissible expenses. The complainant was also ready to accept the offer. Ombudsman directed Bajaj Allianz Life Insurance Company Ltd to settle the claim under the policy in dispute pertaining to Mr. Dilip Kute along with interest as specified by IRDA from the date of intimation of claim till its settlement within 10 working days.

On 02.08.2013, the forum received email from the company that they have paid an amount of Rs. 18339/- vide Cheque no. 183779 to the complainant Mr. Kute and cheque has been dispatched through Overnite Courier on 30.07.2013 vide POD No. 9148397252

As the dispute under policy no. 0118429550 has been settled by the Bajaj Allianz Life Insurance Company Ltd., the complaint is treated as resolved and it is closed at this Forum.

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complaint No.LI- 321 (2012-2013)
Complainant: Shri Narendra Manchanda
v/s.
Respondent: Birla Sun Life Insurance Company Ltd.

Award dated :02.08.2013

One of the Agent from Birla Sun Life Insurance Company Ltd. called Mr. Narendra Manchanda and insisted him to buy a policy wherein he had to pay premiums of Rs. 40,000/- for only 3 years and he would get Rs.1, 65,000/- after 3 years plus bonus of Rs. 40,000/-. The agent had also explained that the policy had mediclaim benefit on his life and on the life of his wife for Rs. 2 lakhs each, normal death benefit of Rs. 3, 50,000/- , Personal Accident Benefit of Rs 7 lakhs and Public Transport Death benefit of Rs 9 lakhs. Though he didn't know the agent personally, he trusted his words since he felt that the agent belonged to renowned insurance company. He did not take any written evidence of the promises made by the agent. He received the policy after 2 months of paying the premium but since he was not keeping well then, he didn't go through the terms and conditions of the policy. After 2 months, he realized that the policy didn't had the benefits as was promised at the time of proposal .When he went to the insurer's office and asked them to cancel his policy , they informed him that the policy cannot be cancelled as the free look period had expired.

Aggrieved by their decision Shri Narendra Manchanda approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of his grievance.

After perusal of the records, parties to the dispute were called for a hearing on 03.06.2013 at 2.30 P.M. During the course of hearing , the company representative admitted that the

company has received similar complaints for the same agent (Vignaharta –Corporate agent) who canvassed policy to Mr. Narendra Manchanda ,on earlier occasions also from different policyholders and hence terminated its service. When Ombudsman asked her since the company had agreed that the agent has misguided the complainant, whether any decision in favour of complainant can be taken by the company. The company representative stated that there are certain single premium plans floated by Birla Sun Life Insurance Company Ltd. and she would get the details of the same and check out whether the same can be given to the complainant on cancellation of his policy in dispute. The complainant also agreed to accept the single premium policy provided no extra premium is required to be paid by him.

On hearing the deposition of both the parties to dispute, Hon'ble Ombudsman directed the company to offer a suitable single premium plan as proposed by the insurer after obtaining written consent of the policy and to the question whether it will satisfy the complainant, the answer in affirmative

On 02.08.2013, the forum received letter dated 02.08.2013 from the complainant stating that his dispute under policy no. 005078470 has been settled on cancellation of this policy and new policy under single premium mode has been issued on the life of his wife Mrs. Amita Manchanda.

As the dispute under policy no 005078470 have been settled by the Birla Sun Life Insurance Company Ltd., the complaint is treated as resolved and it is closed at this Forum.

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Complaint No. LI –499 (12-13)

Complainant: Shri Vasant Kshirsagar and

Smt. Veena Kshirsagar

V/s

Respondent : HDFC Standard Life Insurance Company Ltd.

<u>Award dated 29.08.2013</u>

The complainant Mr. Vasant Kshirsagar and Mrs. Veena Kshirsagar had bought pension plan, policy no.s being 10001833 and 10001839 from HDFC Standard Life Insurance Company Ltd. by paying a single premium of Rs.25000/-under both the policies in 2004. On 16.02.2012, they received intimation from the company informing them that their policies have matured and they have to make a choice of annuity. Since they didn't wanted annuity installments but a lumpsum amount, they applied for surrender on

18.02.2012. However HDFC Standard Life Insurance Company Ltd. informed them that since their policies have matured they cannot opt for surrender.

Aggrieved by their decision, both Mr. Vasant Kshirsagar and Mrs. Veena Kshirsagar approached the Office of Insurance Ombudsman, seeking intervention of Ombudsman in the matter of settlement of their grievance.

After perusal of the records, parties to dispute where called for hearing on 27.08.2013 at 12.30pm at Pune Camp.

The complainant Mr. Vasant Kshirsagar along with his daughter Ms. Varsha appeared and deposed before the Ombudsman. Ms.Varsha stated that policy documents were not shown to them before paying the premium and after receipt of the policy, when they went through the terms and conditions of the policy; they found that these terms and conditions were not favourable to them. Ombudsman asked them why they did not cancel the policy during the Free Look Period, to this Mr.Vasant stated that when he went to cancel the policy the office informed him that only Rs.19,000/- would be paid under each policy. Since they did not wanted to lose Rs.7,000/- under each policy, they decided to continue the same. In 2010, when he enquired about the Fund Value under both the policies, the office informed him that Rs.43, 000/- is accumulated under each policy. Since the returns were good enough they did not think of cancelling their policies. Again in 2011, they enquired about Fund Value under their policies, the officials informed them that Rs.38, 000/- has been accumulated under each policy. Since the Fund Value had depleted from Rs.43, 000/- to Rs.38, 000/- he requested the company to atleast refund him Rs.38,000/- on 18.02.2012. He stated that they received annuity letter dated 02.02.2012 on 16.02.2012. Company informed them that since they had applied for surrender after policy maturity, surrender value cannot be given. His contention was that company should have informed him 6 months prior to policy maturity that option of surrender is not available once the policy matures.

HDFC Standard Life Insurance Company Ltd. was represented by Mr. Dheeraj Gaikwad. He stated that the complainant didn't approach for cancellation during free look period. He also stated that complainant is a prudent customer because he prefers to manage his funds on his own and hence opted to Fund Switch on 09.09.2006. As per policy terms and conditions, on maturity, the Policyholder has a choice to utilize the whole amount towards pension or take cash lump sum and convert the rest into annuity as per Clause 3 (i). The company had sent Annuity application form on 02.02.2012 to the complainant however they did not receive the same duly signed by Mr and Mrs. Kshirsagar.

On hearing the deposition of both the parties to dispute, Ombudsman observed that letter for annuity option was send by the company on 02.02.2012 which was received by the customer on 16.02.2012 i.e. after the policies had matured. Thus the company had deprived the complainants of exercising the option of taking lumpsum cash upto of 33% of the fund value. Thus there is deficiency in the service given to the customer by HDFC Life. Ombudsman asked the company representative whether his company can reconsider to provide 33% of fund value as lumpsum and balance as annuity. Mr. Dheeraj requested Ombudsman to allow him to talk to his seniors. Ombudsman acceded to his request.

After consultation with his seniors, Mr.Dheeraj informed that the Company is ready to offer 33% as Lump Sum Cash Benefit and balance as Annuity, to which the complainant agreed. As the dispute under the policy No.10001833 & 10001839 has been resolved, the complaint is treated as closed at this Forum. There is no other relief.

Complaint No. LI – 583 (2012 – 2013)
Complainant: Mr. Munnawar Badami
V/s
Respondent :Aviva Life Insurance Company India Ltd.

Award dated : 01.08.2013

In May 2011, one of the executive from RBS visited Mr. Munnawar Badami and advised him to purchase a single premium policy of Rs. 1 lakh from Aviva Life Insurance Company India Ltd. where in he would get cover of Rs. 1 crore. Based on her advice, Mr. Munnawar Badami issued a cheque of Rs. 1 lakh on 02.05.2011. Since he didn't receive the policy document, he kept following it up with the executive . However after some time, she kept avoiding his calls. In May, 2012, he was surprised to receive a call from Aviva Life Insurance Company India Ltd. for renewal premium payment. On making enquires with the company, he came to know that regular premium policy was issued to him instead of single premium plan wherein he had to pay premium for 20 years. When he wrote to the company about non- receipt of policy document, they informed him that policy has been dispatched through Overnite courier on 13.5.2011. He wrote several times to the company to produce him the evidence of delivery of policy document; however they were not ready to produce any proof of delivery. Hence he requested the insurer to refund Rs. 1 lakh Premium on cancellation of his policy. However the company informed him that since request for cancellation was made beyond free look period, they cannot accede to his request.

Aggrieved by their decision Shri Munnawar Badami approached the Office of the Insurance Ombudsman seeking intervention in the matter for settlement of his complaint.

The parties to dispute were called for hearing. During the deposition Mr. Munnawar Badami informed the forum, that if he would have received the policy document, he would have gone through the schedule of the policy and would have come to know that it was not a single premium policy and would have cancelled the policy during free look period. Ombudsman asked the Company Representative whether they have any evidence of proof of delivery of policy document and receipt of the same by the policyholder or his authorized representative, to which she said that since the policy was issued in 2011 and complaint was lodged in 2012, it was difficult to retrieve POD. Ombudsman asked her whether Grievance Redressal Cell of her company has gone through the complaint and what was their reply to the customer, however the company representative requested Ombudsman to give 7 days time to enable them to provide this clarification. Ombudsman specifically stated that Certificate from Courier Company stating that policy was delivered to the complainant would not suffice and directed the company that on 24th July, 2013 at 3.30pm, they should produce concrete evidence that Mr. Munnawar Badami or his authorized representative has received the policy document and asked Mr. Badami to be present at the same time to verify his signature on the said document .

The company had sent an email on 24.07.2013 stating that the representative of the company would not be attend the hearing due to major water logging in her area. The company had also attached letter dated 23.07.2013 along with their email wherein they had advised the Ombudsman regarding the manner in which the case has to be decided and also tried to circumvent the issue by submitting a Certificate from Courier Company

about dispatch of the policy document to the complainant. Ombudsman also observed that the company wanted him to refer the matter to the court of law which he felt unfair as the complainant had waited for such a long time to get justice. Ombudsman decided to give another chance to the company to present themselves with evidence of proof of delivery of the policy to the complainant on 29.07.2013 at 2.30pm.

On 29.07.2013 Ombudsman asked the company official to produce any conclusive evidence that the policy was delivered to the complainant as the certificate of delivery of the policy document from the Courier company does not have the signature of the person who has accepted the policy. The company official informed the forum that they stand by their decision of rejection of cancellation of policy since the complainant has lodged the complaint after one year of issuance of policy and it is difficult for them to retrieve the actual POD from the courier company. She also stated that it is not possible to convert the policy into single premium plan. .

It is observed from the copy of various emails exchanged between Mr. Badami and the insurer that the complainant came to know that an annual mode policy was sold to him only after he received a call from the company to pay his renewal premium. Thereafter he wrote to the company about non receipt of policy document. They informed him that policy was delivered to him on 13.05.2011. He pleaded to the company several times to give him proof of delivery of the policy document with signature of the person who accepted the same. However he didn't receive any positive response from them. Even the forum gave ample opportunity to the company to defend themselves. However the company produced only a Certificate of delivery from Overnite Express Ltd on 24.07.2013 which didn't had the signature of the person who accepted the policy although it was very precisely mentioned in the minutes of hearing held on 18.07.2013 that such document cannot be accepted as evidence. Though company was again given an opportunity on 29.07.2013 to produce evidence to the satisfaction of the forum, they choose not to take any pains to gather the evidences and again produced the same document as was produced on 24.07.2013, thereby wasting the precious time of the forum as well as the complainant. All these instances shows indifferent attitude of the company towards this Forum and the customers. The forum l failed to understand why company was not sharing the extensive evidence on which they have based their decision to this forum though they are ready to challenge the same case in the court of law.

The complainant has however emphasized that wrong information about mode of premium payment was given by the intermediary in the proposal form which he had signed in the good faith trusting the bank and its officials with whom he had long term relation. If he would have received the policy document, he would have gone through the terms and conditions of the policy and would have cancelled the policy during free look period. Since policy document was not received by him, he emphatically stated that he should be given the benefit of free look period and premium should be refunded to him.

A reading of Regulation 6 (2) of the Insurance Regulatory and Development Authority (Protection of Policyholders' Interests) Regulation 2002 clearly brings out the fact that the date of receipt of the policy by the insured will effectively decide the cooling off period of 15 days. This means, the insured is given a choice to go through the policy document, the various conditions and benefits and take a decision regarding continuation of the cover or cancellation of the same.

In the case of Shri Munnawar Badami , it is seen that the company is satisfied that they have dispatched the policy to his address and since the complainant had not lodged the complaint within 1 years of dispatch of the policy , they have assumed that he has received the policy document. The company has failed to give the name of the person along with his /her signature who accepted the policy document. The policy document is the evidence of the life insurance contract. The contract is between the insurer and the insured and is a vital document which spells out the benefits and conditions of the contract. It is imperative that the insurance company ensures that the document is acknowledged definitely by the insured or in his absence by a person duly authorized by the life assured. In my view, the sanctity of IRDA's Policyholders Protection Regulation 2002 cannot be compromised, since the policy document is the evidence of the contract and adequate opportunities should have to be given for the customer to exercise his option of free look period. Unfortunately in the case of Mr. Munnawar Badami, he did not get that this opportunity. Hence the fact swings the scales in his favour.

Also it is observed that in this case, the policy was canvassed by bank official and it is observed that the customers of the bank generally go by the recommendations of the Bank Employee, since they have unquestionable faith in the bank with which they are customers for years. In this case, this faith has been exploited both by bank and the representative of the Insurance Company. The intermediaries have not done their job properly and have misused the trust which the complainant had in the Bank and in Insurance Company. However complainant cannot be penalized for the omissions made by the intermediaries.

Thus from the principles of natural justice and fairplay , the forum had to take that the complaint of Mr. Munnawar Badami as a maintainable complaint as the company was not able to produce any conclusive evidence of proof of delivery of the policy document and he deserves a relief from me in the form of cancellation of his policy ALA3069199 and refund of Rs. 1 lakh paid by him.

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Complaint No.LI- 1246 (2011-2012)
Complainant: Shri Madhu Prabhat
v/s.
Respondent: LIC of India

Award dated 03.09.2013

The complainant Mr. Madhu Prabhat had taken Money Back policy no. 522361513 in 2004 wherein Survival benefit of Rs.30300/- was due in 03/2008 which was not received by him. On enquiring with LIC office , he came to know that out of Rs 30,300/- due to him under his policy, Rs. 30,000 was utilized towards new proposal on the life of his mother-in- law on the basis of authority letter given by him and balance was refunded to him. He informed LIC that he has not given any authority to utilize the survival benefit amount towards new policy. Hence the whole amount of survival benefit should be refunded to him. He made several followup for redressal of his grievance but did not receive any positive response from them.

Aggrieved by their decision Shri Madhu Prabhat, approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of his grievance.

The parties to dispute were called for hearing on 15.07.2013 at 2.30 pm.

On hearing the deposition of both the parties to dispute, Ombudsman directed LIC to take opinion of Handwriting Expert that the signature in proposal form and consent letter pertains to Mr. Madhu Prabhat and send us the report.

On 11.09.2013, the forum received email from LIC, CRM Department stating that they have obtained opinion of handwriting expert, J.K. Consultancy and copy of Examination Report given by J.K. Consultancy was attached along with the email. As per the opinion of J.K. Consultancy, the signature in the proposal form pertaining to policy no. 522361513 and the signature in letter to the Senior Branch Manager dated 20.03.2008 are of one and the same person.

Since LIC has produced documentary evidence to show that Mr. Madhu Prabhat has signed the letter (which was received by LIC on 20.03.2008) authorizing LIC to utilize his Survival Benefit due 03/2008 for issuing policy in the name of his Mother-in –law, Mrs. Kranti Kumari, the forum finds no reason to intervene in the decision of LIC for denying the request of Mr. Madhu Prabhat in refunding the SB amount with interest.

Complaint No.LI- 1521 (2011-2012)

Complainant: Shri Ketan Parekh
v/s.
Respondent: ICICI Prudential Life Insurance Company Ltd.

Award dated :17.09.2013

The complainant Shri Ketan Parekh has informed the forum that on 21.01.2010 he made premium payment of Rs. 10,000/ for due 14/02/2010 through Standard Chartered Credit Card. However four transactions were processed and total amount of Rs. 40,000/ was debited from his account instead of Rs. 10,000/. He made a complaint on 03/02/2010 and on the basis of retrieval request raised by him with his Standard Chartered bank which in turn was forwarded to ICICI PRU by HDFC Bank (process partner), the company processed a refund totaling to Rs. 40,000/-. However the complainant's contention was that he sought refund of Rs. 30,000/ being excess amount of payment made on credit card and not entire payment. Out of the amount of refund sought, the company has initially processed a payment of Rs. 10,000/ -leaving a balance of Rs. 20,000/. He again requested to refund the balance of Rs. 20,000/ .However the company has processed the refund of entire amount of Rs. 40,000/ .The contention of Mr. Ketan was that premium was paid by him and credited to his policy account and units were allocated on 14.02.2010. However due to entire amount refunded by ICICI PRU the policy amount of Rs. 10,000/ which was invested on 14/02/2010 was also reversed which led to loss in units/appreciation in value of units. He informed the company that he made a premium payment of Rs. 10,000/ vide cheque number 980963 dated 20/06/2011 for premium due 02/2011 and same has been adjusted by ICICI Pru towards premium due 14/02/2011 and premium due 14/02/2010 was still outstanding. Complainant requested them to adjust the amount of Rs. 10,000/- lying with them towards premium due 02/2010 and units be allocated according and also asked for a compensation for life risk not covered during the period from 14/02/2010 till date .The company had informed him that on the basis of complaint received from him on 03.02.2010 and on the basis of Retrieval Request raised by him with his issuing bank and which was in turn forwarded to them by HDFC Bank(process partner) , the company processed the refund of four payouts of Rs. 10,000/- each totally to an amount of Rs. 40,000/-. The company had advised the complainant to raise charge back request with his issuing bank so that the credit of the balance amount of Rs. 10,000/- is received on his credit card. The complainant's contention was that question of charge back request doesn't arise as it was excess payment or refund processed by the company to HDFC bank than what was required , being an error on the part of the company officials.

Aggrieved by their decision Shri. Ketan Parekh approached the Office of the Insurance Ombudsman seeking intervention of the Ombudsman in the matter for settlement of his complaint.

After perusal of the records, parties to the dispute were called for a hearing. The forum asked the complainant to give evidence of various dates of refund received by him to the company and advised the company to comply with the following requirement within 10 working days time:-

1) **The complainant was advised to give a letter to Standard Chartered bank immediately requesting them to refund the balance amount of Rs. 10,000/-to the insurer .He was advised to give a copy of this letter to the company. On the basis of that letter the company was advised to retrieve the money through their banker and adjust the same for premium due 02/2010 and unit be allocated as on 14.02.2010.**

2) **It was observed that the amount of Rs. 40,000/- was wrongly debited in 01/2010 and the complainant had raised refund request of Rs. 30,000/- in 02/2010. The company has refunded Rs. 30,000/-not in one go but in various intervals i.e. Rs,10,000/- refunded in 02/2010, again in 06/2010 an amount of Rs. 10,000/-was refunded and the last refund was made on 07/2010.The company was directed to verify the exact date of refund on the basis of evidence produced by the complainant and pay penal interest to him on premium refunded on 06/2010 and 07/2010.**

3) **Since there was no life cover given to the complainant from 14/02/2010 till date, the company was advised that no life cover premium be deducted from his account and units be adjusted accordingly.**

4) **If the complainant wanted to revive his policy and pay the arrears of premium, then it should be taken by the company without any penal interest as it was not his fault and life cover be commenced from date of such receipt.**

As company has complied with directions given by the forum, the complaint is treated as resolved and closed at this forum.

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complaint No.LI- 1533 (2011-2012)

Complainant: Shri Sanjay Chitalia
v/s.
Respondent: HDFC Standard Life Insurance Company Ltd.

Award dated 23.08.2013

The complainant Mr. Sanjay Chitalia had taken four policies viz policy no. 00006388, 00006390, 00006391 and 0006394 in 2001 from HDFC Standard Life Insurance Company Ltd. In 2011 he received notice to pay premiums wherein service tax was levied on his premiums. He informed the company that as per terms of the contract there is no provision to increase the premium under any circumstances. Company cannot change the terms of contract unilaterally and compel him to pay extra amount. The company informed him that Service Tax was levied as per Govt. Guidelines. They had also informed him that as per policy terms and conditions under Sec 3(i) of Payment and cessation of premiums, they have the right to charge service tax. He informed them that as per his policy terms and conditions section 3 (i) does not talk about taxes. He accepted the fact that Service Tax is levied as per Govt. guidelines however it is no where mentioned that the tax is to be borne by the insured He requested them to refund service tax charged till date and not to impose service tax on his policies in future. However Company did not accede to his request.

Aggrieved by their decision, the complainant, Mr. Sanjay Chitalia approached the Office of Insurance Ombudsman. After perusal of the records, parties to the dispute were called for a hearing. .Mr. Sanjay Chitalia stated that the company has deviated from the contract without seeking his consent. He stated that when a proposer signs on the proposal form and pays first premium and the company accepts the same, thereafter both the parties are bound by the contract and cannot change any rules unilaterally. He said that he claims income tax benefit under his policies and the Govt. changes this tax benefit every year. However the company never compensates him when the tax exemption is less in a particular year. He stated that when the company is not concerned about the taxes levied on him, then why he should be concerned about taxes levied by the Government on the insurance company. He also stated that if tomorrow the Government would come up with a Rule wherein taxes on the policies are reduced, would HDFC Standard Life Insurance Company Ltd. then reduce the premium on his policies. He stated that he received misleading reply from the company that they have denied his request for removal of service tax as per Section 3 (i) of policy terms and conditions. He stated that they have still not rectified their mistake. The company representative submitted that the Service Tax came into force in 2004 however till 2010, the company was bearing this tax. In 2011, when there was clarification that service tax should be imposed on the renewal premium and also that the tax can be imposed even if it was not informed to the policyholder at the inception of the policy, the company started charging the service tax and intimating about it through premium notices. She stated that as per Rule 7(A) of Service Tax Rules issued by Government of India, Ministry of Finance any insurer carrying on life insurance business shall have the option to pay tax at the rate of 1.5 percent of the gross amount of premium charged from a policy holder, if such amount is not intimated to the

policyholder at the time of providing of service. Hence the company has started the practice of charging 1.5% of the gross premium towards Service Tax from 2011 on the renewal premium. She also stated that Section 66 of the Finance Act, 1994, also states that there shall be levy of service tax to a policyholder by an insurer. She accepted that it was wrong on the part of the company to quote Section 3(i) which is not applicable to the policies issued to the complainant.

The entire documents submitted to the forum are taken on record. The provisions relating to Service Tax were brought into force with effect from 1st July 1994. It extends to the whole of India except the state of Jammu and Kashmir. Service Tax is as the name suggests a tax on Services. It is levied on the transaction of certain services specified by the Central Government under the Finance Act, 1994. It is indirect tax which means that normally the service provider pays the tax and recovers the amount from the recipient of Taxable service.

In Budget 2004, it has been decided that the risk cover in life insurance becomes subject to levy of service tax. Section 21.1 of Circular No. 80/10/2004 – S.T. dated 1.7.2004 states that "it has been decided to levy service tax on that portion of the service which pertains to risk element. The levy would not be applicable to such premium of the existing policies which were paid before the new levy comes into force". This means that an insurer cannot charge service tax on the premium which has already been paid by the policyholder but subsequent premiums falling due after issuance of this circular are liable for tax. A notification was issued which further clarified on how the service tax needs to be calculated and on what part of the premium. Notification No. 11/2004-S.T. dated 10-9-2004 states that "An insurer carrying on life insurance business liable for paying the service tax in relation to the risk cover in life insurance provided to a policyholder shall have the option to pay an amount calculated at the rate of one percent of the gross amount of premium charged by such insurer towards the discharge of his service tax liability instead of paying service tax at the rate specified in Section 66 of Chapter V of the Act:
Provided that such option shall not be available in cases where-

(a) the entire premium paid by the policyholder is only towards risk cover in life insurance or

(b) the part of the premium payable towards risk cover in life insurance is shown separately in any of the documents issued by the insurer to the policyholder."

From the documents submitted to the forum it is seen that HDFC Standard Life Insurance Company Ltd. chose not to charge the service tax from the policyholders in 2004 even though life insurance came within the ambit of Service Tax.

In 2011, Government issued further Notification on Service Tax , i.e. Section (7A) of Notification no. 35/2011-Service Tax, dated 25-04-2011 w.ef 1-5-2011 which states that "An insurer carrying on life insurance business shall have the option to pay tax:

(i) on the gross premium charged from a policyholder reduced by the amount allocated for investment , or savings on behalf of the policyholder, if such amount is intimated to the policyholder at the time of providing of service;

(ii) 1.5 percent of the gross amount of premium charged from a policyholder in all other cases:

Towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Chapter V of the said Act

Provided that such option shall not be available in cases where the entire premium paid by the policyholder is only towards risk cover in life insurance."

This Notification has very clearly specified that where the insurer has not intimated the policyholder about the service tax at the time of issuance of the policy, in such cases , service tax amount would be 1.5 percent of the gross amount. It is also observed that HDFC Standard Life Insurance Company Ltd. has started collecting service tax from its existing customers only after issuance of this notification.

As seen earlier, Service Tax is a form of indirect tax imposed on services provided. The service provider pays the tax and recovers the amount from the recipient of taxable service. Service Tax is charge on the user of service. Hence is to be borne by the user of the service and not the provider of the service. It is only for administrative convenience that the provider of service collects the tax from user and remits the same to the Government of India.

Life insurance is a contract between an insured (insurance policy holder) and an insurer where the insurer promises to pay a designated beneficiary a sum of money (the "benefits") upon happening of certain an event for payment of a cost called premium. Life insurance premium comprises of Mortality amount, Expense element, Investment element and Contingency provision. Payment of premium is covered by the terms of the policy document and contract is compete when parties mutually agree for the terms wherein premium amount is fixed. Premiums that are payable after the initial premium and that are a condition for the continuation of the policy are called Renewal Premium.

Service Tax was enforced by the Finance Act, 1994 in 2004. Therefore even in 2004, the policies were liable to service tax but it was being borne by the insurer. In this case also HDFC Standard Life Insurance Company Ltd. had absorbed the service tax till 2011 and did not pass the incidence of Tax on the customers. It was only after the Government of India issued Notification no. 35/2011-Service Tax, dated 25-04-2011 specifying the rate of service tax to be levied on new and existing policies, that the company started collecting this from the customers with effect from 1.5.2011. This is evident from the difference in the Renewal Receipt issued to Mr. Sanjay Chitalia in 2010 and 2011. It is observed that the renewal premium receipt of 2010 issued to Mr. Chitalia (for example under policy no. 00006391) comprises premium collected only for Endowment Assurance Benefit i.e Rs. 10,956/- whereas the renewal receipt issued

in 2011 for the same policy shows amount collected under two heads i.e. Rs. 10,956 /- for Endowment Assurance Benefit and Rs. 169/- as Service tax and levies. This also implies that the contracted amount is not changed but the company has collected the Service tax as a separate amount as per the changes in Government Regulations. Hence the contention of the complainant that premium is changed unilaterally does not hold good. The company has also informed the complainant that service tax will be levied on the policies through insertion in the premium notices issued after 05/2011. Thus the company has done its duty of making the customers aware of their tax burden before hand. The policy document also very clearly reads that "Your policy is written under and will be governed by the law of India" .This implies that the company has the right to amend the policy provisions if there are changes in the Government Law. Thus I observe that the company has acted as per Government Regulations and their action is just and legal.

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complainant No.LI- 1730 (2012-2013)

Complainant: Shri. Murlidhar Patil
v/s.
Respondent: SBI Life Insurance Company Ltd.

Award dated 17.09.2013

The complainant Mr. Murlidhar Patil had requested an agent from SBI to give him some plan which would fetch good returns on his one time investment of Rs. 1, 50,000/-. He was issued Unit Plus II plan, policy no. 28010658001 on 06.11.2007 by SBI Life Insurance Company Ltd. Three months before maturity, he received letter from the insurer stating that he would receive Rs. 1111/- as annuity every month. He requested them to give lumpsum amount on maturity instead of annuity installments. However SBI Life Insurance Company Ltd. did not accede to his request.

Aggrieved by their decision, Mr. Muridhar Patil approached Office of Insurance Ombudsman seeking intervention in the matter of settlement of his grievance.After perusal of the records, parties to dispute were called for hearing.

During the deposition Mr. Muridhar Patil stated that when he received the policy document he realized that out of Rs.150, 000 paid by him, around Rs. 18000 was given as commission to the agent. He called the agent to enquire about the same. However the agent showed him Benefit Illustration and informed him that he would receive Rs. 8 lakhs on maturity. He was receiving notices to pay premium every year. However the agent had informed him that he need not pay further premiums. Three months prior to maturity, he received letter from SBI Life stating that value of his investments were around Rs. 1,13,000/- and he would receive an annuity of Rs. 1111/- every month. When he requested the company to refund the lumpsum amount on maturity, the company

rejected his request .He stated that he had invested in SBI Life Insurance Company Ltd. as he had faith in the brand name of SBI Bank , but he came to know later on that it is a private company having tie up with BNP Paribas. He stated that he cannot read English and had only signed on the proposal form whereas all other details were filled by the agent. Though he had given passport and PAN card has age proof, the agent had insisted on voting card where his age and address are not recorded correctly. The agent has mentioned his age in the proposal form as 65 whereas he was 68 years at the time of proposal. He is retired Bank Employee whereas his source of income is shown as farming though he does not have any agricultural land. He pleaded for sympathetic consideration.

The company representative submitted that the complainant had applied for Unit Plus II plan, policy no. being 28010658001 on 06.11.2007 by paying an initial premium of Rs. 1,50,000/- and opting vesting age as 70 . The complainant had the option of cancelling the policy during free look period, which he has not availed of. As per terms and conditions of the policy , when the policy vests, the policyholder have an option to compute one third of the maturity amount and balance amount is utilized to purchase annuity as per the choice of the annuitant. SBI Life had sent letter dated 07.08.2012 to the complainant requesting to choose the type of annuity he prefers to opt. The fund value as on date of vesting i.e. 06.11.2012 under the policy was 1,22,963.24 out of which policyholder can commute upto 33% and can opt for any one of the annuities as per Annuity Option Sheet for the remaining 67% of the maturity amount. She stated that after the vesting date they received letter from the complainant requesting them to refund premium for medical treatment. However company was not able to accede to his request as there is no provision in the policy to refund the entire maturity amount.

On hearing the deposition of both the parties to dispute, Ombudsman observed that the policy was missold to Mr. Murlidhar Patil on false promises. It was a clear case of misrepresentation. Selling a pension plan to a person aged 68 years who has no income of his own, for a premium of Rs.150, 000 for 5 years is a mis sale. The policyholder being illiterate has neither understood the policy terms and conditions at proposal stage nor when he received the policy document so as to cancel the policy during free look period. It is informed by the company representative that policyholder had requested for refund of premium on medical grounds but they were not able to honour his request. However looking at the circumstances of the case, the forum advises SBI Life Insurance Company Ltd. to re-examine their decision and inform the forum within 7 working days.

On 10.09.2013, the forum received email from the company stating that "the company has examined the case again and observed that the terms and conditions of the policy do not allow full withdrawal of the amount after the vesting date. The complainant has the option to withdraw up to maximum of 33% of the amount in the PPA and with the balance amount the complainant has to purchase any one of the annuities as available on the vesting date from SBI Life or from any other life insurer. It is further submitted that the product features have been approved by IRDA and any deviation from the terms and conditions of the policy shall amount to violation of approved features and thus violate IRDA regulations which do not permit the company to grant any benefits against the terms and conditions of the policy".

The entire documents submitted to the forum are taken on record.

It is observed that Mr. Murildhar Patil had opted for pension plan from SBI Life by paying an premium amount of Rs. 1, 50,000/- for a term of 5 years and date of commencement of the policy is 06.11.2007. The fund value as on vesting i.e. on 06.11.2012 is Rs. 1, 22,963.24. Though the company is ready to give him 33% of fund value on maturity, the complainant had demanded full refund of premium amount.

Let us understand the policy conditions relating to benefits payable on Maturity:-

Benefits payable at maturity :- "Where the life assured attains the Vesting age he/she will have the option to commute upto one third of the maturity benefit and purchase an annuity with the remaining two third of the maturity benefit in accordance with prevalent tax laws. The annuity may be purchased either from the company (depending on the annuity products then available with the company) or from any other annuity provider. The maturity benefit is equal to the fund value based on the NAV prevailing on the Vesting date."

Thus as per the policy terms and conditions, the policyholder does not have the right to withdraw full amount on maturity. The policyholder has the option to withdraw only 33% of the fund value and with the balance amount he has to purchase any one of the annuities as available on the vesting date. The company has sent letter dated 07.08.2012 to the complainant, informing him about the various annuity options available under the policy. Thus the action of the company is legal.

During deposition , the complainant had submitted that he had only signed on the proposal form whereas all other details were filled by the agent , the forum is of the opinion that the complainant should have checked whether the details filled by the agent in the proposal form are true and correct. This is essential as once the life assured signs on the proposal form, it becomes binding on him and he becomes responsible for the contents filled in the form.

Under these circumstances, this Forum has no valid reason to intervene with the decision of SBI Life Insurance Company Ltd to deny the request of the complainant Mr. Murildhar Patil for payment of full refund of premium amount under the policy held by him.

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Complaint No.LI- 1537 (2011-2012)

Complainant: Shri Vijay Prabhu
v/s.
Respondent: Bajaj Allianz Life Insurance Company Ltd.

Award dated 31.07.2013

Group Unit Gain Insurance Policy was sold to Mr. Vijay Prabhu by India Infoline on 07.10.2010. When he received the renewal premium notice, he found that his fund value was Rs.28481.21 against the premium payment of Rs. 50,000/-. When he enquired with the company as to why his fund value has reduced, they informed him that 35% of premium was adjusted towards allocation charges from first annual premium. This information was not provided to him at the time of policy. The charges incorporated in policy certificate issued to him were same as that in the Brochure and does not contain any allocation charges. Hence he demanded refund of his premium amount on cancellation of his policy. However the company did not accede to his request stating that India Infoline is the Master policy holder and as this being Group Insurance Scheme, terms and conditions like allocation charges are agreed between Master policyholder and the insurer and details regarding allocation charges would be reflecting in the Master policy.

Aggrieved by their decision, the complainant, Mr. Vijay Prabhu approached the Office of Insurance Ombudsman .After perusal of the records, parties to the dispute were called for a hearing .When Ombudsman asked Mr. Vijay Prabhu whether he has any connection with India Infoline, he stated that he is nowhere related to India Infoline and he took the policy on the basis of information given by Mr. More from India Infoline. Ombudsman asked him that since he was not Member of any group constituted by India Infoline, then why he had not questioned the company on receipt of Certificate of Insurance where the name of the policy was Group Unit Gain , to this the complainant accepted that it was his mistake that he blindly trusted the IndiaInfoline official .Ombudsman has asked the company to produce a copy of Master Policy, copy of Memorandum of Understanding between Bajaj Allianz Life Insurance Company Ltd. and India Infoline and observation of the company as to in which capacity Mr. Vijay Prabhu is the member of India Infoline.

On 4.07.2013, the forum received from the company a copy of Master policy of Bajaj Allianz Group Unit Gain issued to India Infoline. The company has also informed the forum that MOU is not necessary for issuing a policy under group insurance and they have provided the scheme rules signed by Bajaj Allianz Life Insurance Company Ltd and Master Policyholder. The company has also provided the copy of Membership register submitted by India Infoline where the details of the members enrolled are given and Membership no. of Mr. Vijay Prabhu is mentioned as 186652237.

The entire records produced before the forum is taken on record. It is observed from the records submitted before the Forum that India Infoline is the Master Policyholder of Group Unit Gain Insurance Policy no. 0184029017 and the policy provides financial

security to the members of India Infoline which is a brokerage firm providing financial services . It is observed that the complainant was neither informed during sale proceeds by India Infoline nor in the Certificate of Insurance issued by the insurer that 35% of 1st year premium will be utilized towards Premium Allocation charge. The documents produced before me i.e. Sales Brochure of Bajaj Allianz Group Unit Gain , Sales illustration given to Mr. Vijay Prabhu at the time of proposal as well as the Certificate of Insurance are all silent on the aspect of Premium Allocation charges. The Brochure and the Sales Illustration should reveal all the facts that a buyer needs to know to make an informed decision about the product. Also in the proposal form there is no question seeking information about the membership no. of the insured and his relationship with the group. IRDA Guidelines on Group Insurance Policies dated 14.07.2005 very clearly states that Certificate of Insurance should contain information on the schedule of benefits, the premium charged and important terms and conditions of the insurance contract. The forum also observed that there is statement at the bottom of Certificate of Insurance which states "Please contact your Master Policyholder for the actual terms and conditions of the Master Group Policy". However it is to be remembered that majority of our public trusts the insurer and choose to ignore going through the papers/documents received from Insurance Company. Hence it is not appropriate to ask the policyholder to go through the terms and conditions of Master Policy of which he doesnot have any copy and it sounds still absurd to ask the policyholder to contact his Group Organizer for the terms and conditions of his insurance contract. Thus in this case of Mr. Vijay Prabhu, it gives a feeling that there is gross mis-representation of the facts on the part of the insurer and India Infoline .Any insurance product is a result of solicitation by an intermediary and knowledge of insurance is very low among the general public. All such cases indicate that gullible customers are forced to shell out huge amounts of money in the name of premium to the group and the person who solicited the business have not given them full details of terms and conditions of the policy and the people have continued to take such policies from unscrupulous entity. I have to admit that the public at large take such policies in good faith based on the implicit trust they have in the brand name of the company and by and large they tend to fall victim to the clever manipulation played by the organizer of the group or the intermediary. The complainant should not be penalized for the omissions and commissions of the Master Policy Holder or for that matter that of the company.

Thus in the instant case, there is apparent discrepancies /inconsistencies in the two documents i.e. The Master Policy and Certificate of Insurance issued by the Company for the same product causing unnecessary hardship to the complainant. Under these circumstances, the forum is constrained to give the complainant relief for the reasons stated above.

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