

PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, CHANDIGARH
(UNDER INSURANCE OMBUDSMAN RULES, 2017)
INSURANCE OMBUDSMAN-Dr. D.K. VERMA

CASE NO-CHD-L-009-1617-0627

In the matter of Sh. Avtar Singh Vs Birla Sun Life Insurance Company

1.	Name & Address of the Complainant	Sh. Avtar Singh House No. 129, Mayur Vihar, Sector 48-A, Chandigarh (UT)
2.	Policy No: Type of Policy Duration of policy/Policy period	005540046 005496989 005553915 005501796 005554039 (BSLI Vision Plan -GSB Pay) (BSLI Bachat End Plan) 15 Yrs. / 15 Yrs. 20 yrs. / 20 yrs.
3.	Name of the insured Name of the policyholder	Sh. Avtar Singh, Aman Deep Singh, Prabhjot Singh Sh. Avtar Singh, Aman Deep Singh, Prabhjot Singh
4.	Name of the insurer	Birla Sun Life Insurance Company
5.	Date of Repudiation	NA
6.	Reason for repudiation	NA
7.	Date of receipt of the Complaint	15-07-2016
8.	Nature of complaint	Mis-selling
9.	Amount of Claim	Refund of Rs. 4, 41,310/- with intt.
10.	Date of Partial Settlement	NA
11.	Amount of relief sought	Refund of deposited amount with intt.
12.	Complaint registered under Rule no: Insurance Ombudsman Rules, 2017	13.1(c)
13.	Date of hearing/place	10-05-2018/Chandigarh
14.	Representation at the hearing	
	a) For the Complainant	Sh. Avtar Singh the complainant.
	b) For the insurer	Sh. Kaveesh Manager (Legal)
15.	Complaint how disposed	Award
16.	Date of Award/Order	10-05-2018

17) Brief Facts of the case:-

On 15-07-2016, Sh. Avtar Singh had filed a complaint in this office against Birla Sun Life Insurance Company about issuance of aforesaid 5 policies fraudulently on the basis of tampered proposal forms and forged signatures of his son who was away from India at the time of issuance of the policies. He had submitted the copy of passport showing date of leaving India and reaching Canada by his son who was permanent resident of Canada. Copy of permanent resident card had also been enclosed. When he approached the insurer for cancellation of Policies and refund of deposited amount, his request was rejected on the ground that the request was out of Free Look Period. The fraudulent activities like tampering of proposal forms, forging of signatures of his son and migration documents of his son showing his absence from India were ignored by the insurer.

Annexure VI-A was received on 04.08.2016

Insurer's SCN was received on 02.02.2017.

The insurer submitted that the Policy holder did not approach for cancellation of Policy and refund of premium during Free Look Period, hence, the premium could not be refunded.

18) The following documents were placed for perusal:-

- a) Complaint to the company.
- b) Reply of the insurer dated 17.04.2016.
- c) Proposal Forms.
- d) Coloured photocopy of passport showing date of leaving India.
- e) Permanent Resident Card

19) Result of personal hearing with both parties (Observations & Conclusion)

Sh. Avtar Singh, the complainant, attended the hearing on 10.05.2018 and reiterated the contents of the complaint. He added that his son has been staying in Canada and produced coloured photocopy of the passport which confirms that his son and grandsons on whose lives the policies were issued were not in India on the date of issuance of policies. The policies had been purchased by him on the advice of broker who did not explain the terms and conditions of the policies to him at the time of completing the proposal forms. He also stated that he had invested the amount out of his retirement fund and had been cheated by mis-selling the policies. Sh. Kaveesh, Manager (Legal) from insurance company attended the personal hearing and he referred to SCN already submitted. He also added that the complainant had purchased one policy in 2011 and 4 policies in 2012 after understanding the terms and conditions of the policies. The request for cancellation of policies was received only after one and half year of the issuing of policy documents to the complainant and as such the premium could not be refunded.

I have gone through the contents of the complaint, SCN submitted by the insurer and the submissions made at the time of personal hearing. The policies had been mis-sold by misrepresentation of the facts on the lives of persons who were not in India at the time of issuance of policies. All the 5 policies were issued in 03/2012 and 04/2012 and the representative of the insurer admitted the fact that SCN contained contradictory statement.

AWARD

Keeping in view the facts stated above, I order the insurer to cancel all the five policy nos. 005540046, 005496989, 005553915, 005501796 and 005554039 and refund the premium without any interest and deductions. The insurer shall comply with the award within thirty days of the receipt of the Award and intimate compliance of the same to the Ombudsman.

Dated at Chandigarh on 10th day of May 2018.

**D.K.VERMA
INSURANCE OMBUDSMAN**

**Copy to: 1) Complainant
2) Company**

**PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, CHANDIGARH
(UNDER INSURANCE OMBUDSMAN RULES, 2017)
OMBUDSMAN – Dr. D.K.VERMA**

**CASE OF Mrs. Neelam Rani V/s. Life Insurance Corporation of India
COMPLAINT REF: NO: CHD-L-029-1617-1217**

1.	Name & Address of the Complainant	Mrs. Neelam Rani House No. 514, Samadhi Gate, Mani Majra, Chandigarh-0
2.	Policy No: Type of Policy Duration of policy/Policy period	162712569 Asha Deep (with profit) (With acc. Benefit) 20 years / 20 years
3.	Name of the insured Name of the Proposer	Mrs. Neelam Rani Mrs. Neelam Rani
4.	Name of the insurer	L.I.C of India, Divisional Office Chandigarh
5.	Date of Repudiation	29-01-2016
6.	Reason for repudiation	Treatment taken by LA not covered under the terms & conditions of the policy & is specifically excluded as per clause mentioned in the policy condition 12 (b) (iii)
7.	Date of receipt of the Complaint	15-11-2016
8.	Nature of complaint	Cancer (Malignant) claim not admitted
9.	Amount of Claim	NA
10.	Date of Partial Settlement	NA
11.	Amount of relief sought	Claimed amount.
12.	Complaint registered under Rule no: Insurance Ombudsman Rules, 2017.	13.1(b)
13.	Date of hearing/place	24.05.2018/Chandigarh
14.	Representation at the hearing	
	c) For the Complainant	Mrs. Neelam Rani, the complainant
	d) For the insurer	Ms. Chanchal Bisht Manager(Claims) Ms. Anita Malhotra A.O. (Claims) Sh. Harvinder Puri A.O. (CRM)
15	Complaint how disposed	Dismissed
16	Date of Award/Order	24.05.2018

17) Brief Facts of the Case:

On 15-11-2016 Mrs. Neelam Rani had filed a complaint in this office against Life Insurance Corporation of India in respect of Asha Deep policy bearing number 162712569 purchased on 28.07.2004. The sum assured was Rs 1, 00,000 and the term of the policy was 15 years with yearly premium of Rs.9346/-. She suffered from uterus cancer for which TAH +BSO was done on 31.08.2015 at Dhillon Nursing Home Chandigarh. The complainant lodged claim with Insurance Company. The Insurance Company rejected the claim on 29.01.2016 because treatment taken by LA was not covered under the terms & conditions of the policy. She also appealed to Zonal Manager but

her appeal was rejected due to the reason that Cancer (non-malignant tumor) was not covered under policy conditions.

The Insurer's SCN was received on 15.12.2016.

Annexure VI-A was received on 08.12.2016.

The insurer had mentioned in SCN that the ailment suffered was post menopausal bleeding and enlargement of Rt. Ovary for which TAH + BSO was done on 31.08.2015 at Dhillon Nursing Home Chandigarh. The claim lodged for the above said contingency i.e. Fibroma Thecoma (Non malignant Tumor) is not covered as per the terms and conditions of the policy and is specifically excluded as clause 12(b) (iii) of the policy conditions.

18) The following documents were placed for perusal:

- a) Complaint to the Company
- b) Copy of policy document
- c) Various reports and the reports of physician.
- d) Reply of the Insurance Company

19) Result of hearing with both parties (Observations & Conclusion)

Mrs. Neelam Rani, the complainant, in the instant case, was present during personal hearing on 24.05.2018 and reiterated the contents of the complaint dated 15.11.2016. She further added that her claim under Asha Deep Policy had been rejected on the ground that her claim relating to uterus was not covered under the said policy. She also referred to the treatment chart and the discharge slip of Dhillon Nursing Home as also the histopathological report of PGIMER, Chandigarh.

Ms. Chanchal Bisht, Manager (Claims) and Ms. Anita Malhotra, AO (claims) on behalf of LIC, during the course of personal hearing, referred to the DMR/ZMR reports according to which the policy condition that the contingency of Fibroma Thecoma of ovary and uterus from which the complainant was suffering was not malignant and hence not covered under the policy conditions.

I have considered the submission on both sides, perused the medical reports including the histopathological report of PGIMER and Malhotra Medical Laboratories Pvt. Ltd. reports and also the treatment chart and discharge slip of Dhillon Nursing Home where the complainant had taken the treatment. As per above reports, the complainant was suffering from Menopausal Bleeding and enlargement of ovary. The condition was diagnosed as Fibroma Thecoma of ovary and uterus which was a benign Condition. Even the histopathological report has also confirmed the said findings. The report categorically mentions that there is no evidence of malignancy. I have perused the various terms and conditions of the Policy being held by the complainant. The policy clause 12(b) (iii) covers as under:

“The Life assured suffers from cancer (Malignant). (That is the presence of uncontrolled growth and spread of cancer cells, which destroy the tissues in which they arise with a potential for invading adjacent structures and capable of spreading to distant organs). This includes Leukaemia, Hodgkin's disease and invasive malignant melanomas of skin but excludes carcinoma in skin, tumors associated with HIV infections, non-invasive localized cancers and all other skin cancers”.

Since the complainant was suffering from benign condition and only cancer (malignant) is covered under the said clause, the claim has been rightly rejected by LIC.

ORDER

In view of the above facts and finding on record the complaint is dismissed.

Hence, the complaint is treated as closed.

Dated at Chandigarh on 24th day of May, 2018.

D.K. VERMA
INSURANCE OMBUDSMAN

PROCEEDINGS BEFORE THE INSURANCE OMBUDSMAN, STATE OF KARNATAKA

(UNDER RULE NO: 16/17 of THE INSURANCE OMBUDSMAN RULES, 2017)

OMBUDSMAN – NEERJA SHAH

Case of Mrs CYNTHIA SWARNALATHA SRINIVAS V/s AEGON LIFE INSURANCE COMPANY LIMITED

Complaint No: BNG-L-001-1617-0913, 0914, 0915, 0916, 0917, 0918 & 0919

Award No: IO/BNG/A/LI/0006, 0007, 0008, 0009, 0010, 0011 & 0012/2018-2019

1.	Name & Address of the Complainant	Mrs Cynthia Swarnalatha Srinivas TP6, Harmony Homes 4/2, Hennur Road BENGALURU -560043
2.	Policy No: Type of Policy Commencement of Policy/ Policy Period/PPT	(1)141014232832 (2)14014232836 (3)141014233754 (4)150114288946 (5)150114288922(6)151114544804 (7)151114544817 (1),(6)&(7) AEGON Religare Guaranteed Growth Ins Plan (2) to (5) AEGON Religare Guaranteed Growth Ins Plan (1)17.11.2014/10(PPT8yrs) (2)17.11.2014/10(PPT8yrs) (3)21.11.2014/14(PPT10yrs) (4)31.01.2015/14(PPT10yrs) (5)09.02.2015/14(PPT10 yrs) (6) 22.12.2015/10(PPT8yrs) (7) 29.12.2015/10(PPT8yrs)
3.	Name of the Insured Name of the Policyholder	(1)Mrs Cynthia Swarnalatha Srinivas, (2)Ms. Priyanka Srinivas (Daughter) & (3)Ms. Prithika Srinivas (Daughter) Mrs Cynthia Swarnalatha Srinivas
4.	Name of the Insurer	AEGON Life Insurance Company Limited
5.	Date of Repudiation/ Rejection	Not dated
6.	Reason for Repudiation/ Rejection	Request not received within free look period
7.	Date of receipt of Annexure VIA	21.03.2017
8.	Nature of complaint	Mis-sale
9.	Amount of claim	₹. 14,99,417/-
10.	Date of Partial Settlement	Nil
11.	Amount of relief sought	₹. 14,99,417/-

12.	Complaint registered under Rule No:	13(1)(c) of Insurance Ombudsman Rules, 2017
13.	Date of hearing/place	10.05.2018/Bengaluru
14.	Representation at the hearing	
	a) For the Complainant	Self
	b) For the Respondent Insurer	Ms Aanchul Lalla, Legal Consultant
15.	Complaint how disposed	Allowed
16.	Date of Award/Order	23.05.2018

17. Brief Facts of the Case:

The complaint emanated from alleged mis-sale by the Associates of the SMC Broker/ through false assurances. She was lured to avail 7 policies. Realising that she was cheated by the Broker, she represented to the GRO of the Respondent Insurer (RI) as well, her request was rejected as it was received beyond free look period. Hence, the Complainant approached this Forum to redress her grievance.

18. Cause of Complaint:-

a) Complainant's argument:

The Complainant in her letter and submissions made to the Respondent Insurer stated that in October, 2014, she was contacted on phone by one person who identified himself as Shri. Aryan Khanna who is working in GBIC office situated in Delhi. He informed that her husband had 4 policies with Max Newyork Life and only one policy has been claimed till now and remaining 3 policies were worth 1 crore but he did not disclose policy numbers. He also had details about the policy of Birla Sun Life that she had taken, which according to him had accumulated large bonus of 3+ lakhs which was now being claimed by her agent as commission but it should be paid to her instead of her agent.

She also alleged that as per the aforesaid GBIC call, they have to clear all pending pay outs and in that process, he was advising her to avail the policies from Aegon Life Insurance Co. to deactivate the agent code. Once she deactivates the agent code, GBIC will send a local person from the Insurance Company to collect the application form for processing at the back end. Thereafter, Mr. Vinod from Aegon came to collect the forms and the aforesaid Delhi person also spoke to him from her phone. After she has handed over the application forms to Mr Vinod, calls started coming from the SMC Brokers though the applications were submitted locally.

After getting the 1st policy she visited Aegon Branch office and met Mr. Avinash, Manager, who asked her to do as instructed by him. As soon as she left the Aegon office, a call from GBIC came and advised her not to visit local office and if she visits they would stop the payment. After 60 days, when she contacted Ms. Geetha Nair, phone no. 9136734538 & 9136981388, she promised that her money would be reaching her in 120 days through NEFT along with fund transfer letter and 10D certificate from IT, cheque and NOC.

Later in February, 2015, when she followed up, Mr. Aryan Khanna told her to pay advance tax for NOC approval through onetime payment policy. Otherwise, she would lose all these amounts. Again she paid

for 2 policies. She was in regular touch with them over phone. They were giving some reason or the other for the delay in payment. When she contacted Mr. Aryan Khanna, she was informed by him that the agent department is creating problem and she has to pay the renewal premiums which are due so that they could not get any doubt. She became very upset and refused to pay, because she was short of money. To enable to pay the renewal premiums, she had to mortgage her home which she did not want to do.

She further stated that she is a widow and a single mother with 2 grown up daughters whose education and marriage have to be taken care by her. Again in December the Complainant contacted Mr. Aryan Khanna who informed her that he would revert in 7 days as he had to get in touch their Hyderabad office. She requested him to send a written communication and e-mail, which they did not do. When she contacted on 03.01.2017 over the same mobile number, the call was picked up by one Mr. Vikram Mehta, who informed her that Mr. Aryan Khanna died a few days ago. But she had received a Christmas greetings message from Mr. Aryan Khanna. She had enquired with him to inform her about the person who was assigned with her file, it was replied to her that nobody was assigned for her file.

Recently the department asked her to get in touch again with Ms. Geetha Nair. She also informed about the death of Mr. Aryan Khanna and asked her to pay the next premium. She became suspicious and realised that she might have been cheated. There after she was calling the said mobile numbers but she was not getting response or the calls were getting disconnected. When she finally was able to contact Ms. Geetha Nair and asked whether they were lying to her she acknowledged and said "YES" and asked her to pay the premiums or file complaint.

The Complainant had severe attack of dengue 6 months back and developed a cervical problem and hence, she was not able to carry out any desk jobs. Since there is not much improvement in her health, she submitted that she might have to give up her job.

As she had already borrowed a lot of money raising various loans, she finally requested the Forum to consider her case on humanitarian grounds and refund the premiums paid or at least convert them into a single premium policy so that the same could be realised after 5 years for her family needs. All these policies were sold by SMC Insurance Brokers Pvt Ltd

b. Respondent Insurer's argument:

The Respondent Insurer in their SCN dated 28.03.2017, stated that the first complaint from the Complainant seeking cancellation of policies was received through email on 25.01.2017. She alleged mis sale of policies assuring bonus of ₹.30,00,000/-, which was accumulated on her previous policies with Birla Sun Life. Further, she alleged that she was assured of single premium payment policies.

They stated that the first request for cancellation was made after more than one year in respect of 4 policies and 2 years in respect of 3 policies. The R/I stated that the Complainant is an educated person, a Software Engineer, working as project Head with an annual income of ₹.69 lakhs and was supposed to read the policy documents. She had paid renewal premiums towards 4 policies, which states that the she was aware of policy term and premium paying term and also proves that she has the financial

capacity to pay premiums and in particular policy the Complainant had also requested for change of mode of premium payment.

The Complainant had attempted to misguide and mis-lead the honourable Forum and suppressed material facts from this honourable Forum. The R/I stated that all the policies were issued on the basis of proposal form, declaration, benefit illustration and other documents duly signed by policy holder after understanding the policy features. The Complainant did not invoke free look option in case of any discrepancy noticed on receipt of policy document. During the call recordings, the Complainant had confirmed the proposal form was signed by her. As per Regulation 6 (i) of the IRDAI (Protection of Policy Holders Interest) Regulations 2002, the policy holder was given a free lock period of 30 days through a welcome letter and terms and conditions of the policy. However, the policy holder did not report any discrepancy of the policy terms and conditions.

In light of the above, it was respectfully submitted that the complaint is liable to be dismissed and sought for the same.

19. Reason for Registration of complaint:-

The complaint fell within the scope of Insurance Ombudsman Rules, 2017 and so, it was registered.

20. The following documents were placed for perusal:-

- a. Complaint along with enclosures,
- b. SCN of the Respondent Insurer along with enclosures and
- c. Consent of the Complainant in Annexure VI-A and Respondent Insurer in VII-A.

21. Result of personal hearing with both the parties (Observations & Conclusions)

This is a case of mis-sale, emanating from the false and misleading assurances by the Associate of the Broker and Manager of the Respondent. The issue before the Forum is, whether the allegation of the Complainant of mis-sale and her request for cancellation of the policy and refund of the premium is appropriate.

During the personal hearing, both the parties reiterated their earlier submissions from the facts narrated by the complainant it is evident that she was lured to buy policies over phone through false promises by the Associates of Brokers.

RI failed to produce the lead call recordings/proceedings which is mandatory as per 7 (iv) of "Guidelines on Distance Marketing of Insurance Products" issued by IRDA vide reference number IRDA/ADMN/GDL/MISC/059/04/2011 dated 05.04.2011. Since the RI has failed to rebut the submissions of the Complainant, the Forum is inclined to consider the said sale of the policy as 'Mis-sale'. Under these circumstances RI is liable to refund all the premiums in respect of the policies mentioned above with interest.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties during the course of the Personal Hearing, the Respondent Insurer is directed to refund premium paid by the Complainant with interest at applicable Bank Rate + 2% Penal interest as laid down in Regulation 14 of IRDAI (Protection of Policy Holders Interest) Regulations, 2017. RI may deduct the mortality charges in the premium for the period policy was in operation as the

Policyholder was covered for the risk of mortality during the said period.

The complaint is **Allowed**.

22. Compliance of Award:

The attention of the Complainant and the Respondent Insurer is hereby invited to Rule 17(6) of the Insurance Ombudsman Rules, 2017, where under the Respondent Insurer shall comply with the award within 30 days of the receipt of the Award and shall intimate compliance of the same to the Ombudsman.

Dated at **Bengaluru** on the 23rd day of May, 2018

(NEERJA SHAH)
INSURANCE OMBUDSMAN
FOR THE STATE OF KARNATAKA

PROCEEDINGS BEFORE THE INSURANCE OMBUDSMAN, STATE OF KARNATAKA

(UNDER RULE NO: 16/17 of THE INSURANCE OMBUDSMAN RULES, 2017)

OMBUDSMAN – NEERJA SHAH

Case of: Ms AMBUJA S V/s TATA AIA LIFE INSURANCE COMPANY LIMITED

Complaint No: BNG-L-046-1718-0044

Award No: IO/BNG/A/LI/0021/2018-2019

1.	Name & Address of the Complainant	Ms Ambuja S Amma Nilaya 2 nd Cross, C.S.I. Layout TUMKUR -572102 Karnataka State
2.	Policy Nos: Type of Policy Commencement of Policy/ Policy Period/PPT	C140734647 TATA AIG LIFE Mahalife Gold 17.03.2011/50 years (PPT 15 yrs)
3.	Name of the Insured Name of the Policyholder	Ms Ambuja S
4.	Name of the Insurer	TATA AIA Life Insurance Company Limited
5.	Date of Repudiation/ Rejection	20.04.2016
6.	Reason for repudiation/ Rejection	Beyond free look period
7.	Date of receipt of Annexure VI A	22.05.2017
8.	Nature of complaint	Mis-sale
9.	Amount of claim	
10.	Date of Partial Settlement	Nil
11.	Amount of relief sought	Premium paid + policy benefits
12.	Complaint registered under Rule No	13 (1) (c) of Insurance Ombudsman Rules, 2017
13.	Date of hearing/place	11.05.2018/Bengaluru
14.	Representation at the hearing	

	a) For the Complainant	Self
	b) For the Respondent Insurer	Mr P.B. Ganapathy, Manager (Legal)
15.	Complaint how disposed	Allowed
16.	Date of Award/Order	23.05.2018

17. Brief Facts of the Case:

The complaint arose out of alleged mis-sale by the Associate of the India Infoline Insurance Brokers Ltd. The Complainant sought a policy with shorter term whereas the Respondent Insurer (RI) issued a whole life policy. When represented, the RI refused to refund the premium on the ground that it was received after free look period and her request was not considered. Being aggrieved, she approached this Forum for help in resolving her issue.

18. Cause of Complaint: -

a) Complainant's argument:

The Complainant in her letter dated 26.04.2017, submitted that one Shri. Deepak, an associate of India Infoline Insurance Brokers Ltd, contacted her over phone in the year 2011 and explained that the policy would be for 5 years and would be eligible for pension from 6th year onwards. Upon receipt of policy document, she was shocked by noticing that the Premium Paying Term is 15 years.

Immediately, she contacted Shri. Deepak regarding this, who informed that Premium Payment Term was printed incorrectly in the document and she was required to pay premium for only 5 years. She believed him and regularly paid the annual premiums for the next 4 years. On completion of 5 years, she visited the office of the RI in April, 2016 and came to know that the premiums must be paid for 15 years, as per policy.

Then, she registered a complaint alleging mis-sale with the R/I and requested to cancel the policy and refund premium with applicable benefits vide her letter dated 19.04. 2016, but the RI refused to do so vide their letter dated 20.04.2016. Thereafter she represented to the GRO of the RI, informing about the terms of the solicitation being different from terms in the policy bond. She also expressed her inability to pay the premium at her age and having a retired husband with limited means. However the RI did not consider her request. Being aggrieved, she approached this Forum to resolve the issue seeking the premium paid with applicable benefits.

b. Respondent Insurer's argument:

The RI submitted that in the application of Mahalife Gold policy, the policy term and Premium Paying Term were given as 50 and 15 years respectively. The Life Assured (LA)/Complainant did not approach them on receipt of the welcome call on 27.04.2011 for the alleged discrepancies of the term of the policy.

The RI further submitted that the LA would receive dividends from 6th policy anniversary and further guaranteed and non-guaranteed returns would also be provided along with coupons. These benefits were assumed by the LA as Pension. The LA received cash dividend of ₹.10,593/- on 21.03.2017.

On receipt of the complaint, the RI stated to have questioned the Broker about the alleged mis-sale. It appears that an internal investigation was said to be arranged by them and updates have been mailed to them. However the copy of the said report was not found submitted to this Forum.

The RI submitted that the subject policy is procured by the Brokers India Infoline and going by the definitions, the Broker represents the customer and the agent represents the company upon receipt of the complaint. Reminders were sent for payment of renewal of premium on 20.08.2014, 16.02.2015 and lapse notice dated 17.04.2015, 16.04.2016 and 17.04.2017 and non-forfeiture benefits on 02.05.2015 and 02.05.2016. If LA approaches the Respondent for surrender of the policy, the applicable Surrender Value as on that day would be paid. Under the circumstances, the R/I submitted that this complaint is untenable and prayed that the complaint may be dismissed.

19. Reason for Registration of complaint: -

The complaint fell within the scope of Insurance Ombudsman Rules, 2017 and so, it was registered.

20. The following documents were placed for perusal: -

- a. Complaint along with enclosures,
- b. SCN of the Respondent Insurer along with enclosures and
- c. Consent of the Complainant in Annexure VI-A and Respondent Insurer in VII-A.

21. Result of personal hearing with both the parties (Observations & Conclusions):

The crux of the complaint is whether the policy was issued as solicited by the Complainant.

During the personal hearing, both the parties reiterated their earlier submissions.

Further the RI could not produce the lead call recording made between the broker and the Complainant. This was in violation of provisions/guidelines of IRDAI for Distance Marketing.

The RI played the audio recording of PIVC to prove his contention that the Complainant was duly informed about all the terms and conditions of the policy. As the call was made in vernacular and the conversation was between the tele-caller and husband of the Complainant, the RI was requested to send English transcript of the conversation for full understanding of the same. The same was received via email from the RI on 15.05.2018.

The Forum noticed that the tele-caller did not talk to the Policy Holder. The whole conversation provided to this Forum is between the Husband of policy holder and tele-caller. During the conversation the husband also supplied separate telephone number and email id of his wife. However the Forum has observed that no efforts are made by the RI to contact the Complainant to inform her about the policy terms and conditions.

It is also revealed that the tele-caller has informed that the premium of ₹. 29,676/- has to be paid. He also informed that the next due date as 17.03.2012 but he did not inform that the premium has to be paid for 15 years.

From the said PIVC call, the impression which is gained is that no further premium is payable after 17.03.2012. The tele-caller misinformed that the term of the policy is 15 years where as the actual term of the Policy is 50 years and the premium paying term is 15 years. The Forum could not understand how a person aged 50 could be issued with a policy for 50 years where she is required to make annual premium payment for the next 15 years of life without independent source of her income.

In view of the above facts, Forum is of the opinion that this is a clear cut case of mis-sale. Hence, the RI is liable to refund the premiums along with interest.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties during the course of the Personal Hearing, the Respondent Insurer is directed to refund premium paid by the Complainant with interest at applicable Bank Rate + 2% Penal interest as laid down in Regulation 14 of IRDAI (Protection of Policy Holders Interest) Regulations, 2017. RI may deduct the mortality charges in the premium for the period policy was in operation as the Policyholder was covered for the risk of mortality during the said period.

The complaint is **Allowed**.

22. Compliance of Award:

The attention of the Complainant and the Respondent Insurer is hereby invited to Rule 17(6) of the Insurance Ombudsman Rules, 2017, where under the Respondent Insurer shall comply with the award within 30 days of the receipt of the Award and shall intimate compliance of the same to the Ombudsman.

Dated at **Bengaluru** on the 23rd day of May, 2018

(NEERJA SHAH)
INSURANCE OMBUDSMAN
FOR THE STATE OF KARNATAKA

PROCEEDINGS BEFORE THE INSURANCE OMBUDSMAN, STATE OF KARNATAKA

(UNDER RULE NO: 16/17 of THE INSURANCE OMBUDSMAN RULES, 2017)

OMBUDSMAN –NEERJA SHAH

Case of: Mr V KUMAR SUBRAMANIAN V/s BHARTI AXA LIFE INSURANCE COMPANY LIMITED

Complaint No: BNG-L-008-1718-0028, 0029 & 0030

Award No: IO/BNG/A/LI/0022, 0023 & 0024/2018-2019

1.	Name & Address of the Complainant	Mr V Kumar Subramanian 54, 6 th Cross, Cambridge Layout BENGALURU - 560008 Karnataka State
2.	Policy Nos: Type of Policy Commencement of Policy/ Policy Period/PPT	(1) 500-9571521 (2) 500-9571919 (3) 500-9571513 (1) (2) & (3) Bharti AXA Life Secure Savings Plan (1) 27.02.2013/15 years (2) 27.02.2013/15 years (3) 28.02.2013/15 years

3.	Name of the Insured S/Shri Name of the Policyholder	(1) V Kumar Subramanian (2) Preetam Kumar V (3) Usha Kumar Palghat Krishna I S (1) V Kumar Subramanian (2) Saraswathi S S (3) Usha Kumar Palghat Krishna I S
4.	Name of the Insurer	Bharti AXA Life Insurance Company Limited
5.	Date of Repudiation/ Rejection	22.03.2017
6.	Reason for repudiation/ Rejection	Request received beyond free look period
7.	Date of receipt of Annexure VI-A	25.04.2017
8.	Nature of complaint	Mis-representation of policy features
9.	Amount of claim	Refund of premiums paid in all 3 policies
10.	Date of Partial Settlement	Nil
11.	Amount of relief sought	Appr. ₹. 4,20,000/- for all the 3 policies
12.	Complaint registered under Rule No	13 (1) (c) of Insurance Ombudsman Rules, 2017
13.	Date of hearing/place	11.05.2018/Bengaluru
14.	Representation at the hearing	
	a) For the Complainant	Self
	b) For the Respondent Insurer	Mr N Ranganath ,ADM
15.	Complaint how disposed	Allowed
16.	Date of Award/Order	23.05.2018

17. Brief Facts of the Case:

The complaint arose out of alleged mis-sale. Complainant represented to the R/I that at the time of soliciting the policy, the agent canvassed for a policy of 7 years term whereas the policy he received was for 15 years term. He represented to the GRO for cancellation of the policies, who in turn refused to refund the premium stating that the request was received after free look period. Therefore, the Complainant approached this Forum to advise to company to return the premiums paid for 4 years.

18. Cause of Complaint: -

a) Complainant's argument:

The Complainant in his letter dated 19.04.2017 and other submissions made that he along with his 2 family members availed 3 policies from the above mentioned Respondent Insurer. He stated that they were misguided by the Company Executive Ms. Saraswathi.

The said Ms. Saraswathi solicited a policy with 7 years term whereas he received the policies with 15 years term and could not understand the maturity value. In this regard, when he approached the Company Executive Ms. Saraswathi, she assured the earlier commitment of the company and gave a written undertaking from the company. He had produced 3 letters received from the Company Executive which stated that the policy payment term would be for 7 years and the policy can be surrendered in the 8th year and the maximum period given by then was 15 years.

The aspect of mis-sale came to light during his visit to the office in 2017, i.e. again after 4th year, when he intended to take a fresh insurance for his son. One Ms. Sinu George in the office informed him that

the policy issued was for 15 years and the concerned employee who sold the policy had mis-guided them and it was informed that the said letters were not signed by an authorised person.

His representation to the grievance of the company, was flatly denied in writing. He also added that the company was aware of such wrong doings of their executive who was sacked 2 years back.

Since his request for cancellation and refund were not considered, he approached this Forum for refund of premiums paid on all policies

b. Respondent Insurer's argument:

The Respondent Insurer in their SCN dated 02.05.2017, whilst confirming the issue of the said policies for Sum Assured (1) ₹. 9,56,355/-, (2) ₹. 9,97,110/- and (3) ₹. 9,60,639/- respectively denied all the allegations made by the Complainant. The company could not consider the request as there was no mis-sale and no discrepancy in operation and working of the company, as the policy documents were issued based on the key features/documents signed and submitted by the Complainant. The Complainant did not invoke free look option after receipt of policy document and thereby accepted the terms and conditions of the policy.

The complaint was raised after a lapse of 4 years from the date of issue of the policies that too after a very long time of expiry of the free look period and this discrepancy was not pointed out immediately on receipt of policy documents. The Complainant being a prudent person was expected to have read the policy terms and conditions.

The R/I stated that the said letter provided by the Complainant was a fabricated one and the Company did not authorise the issuance of such letters. In view of the above, the afore said policies cannot be cancelled as they were issued in accordance with the terms and conditions of the policy and, the Honourable Ombudsman may be pleased to dismiss the complaint and advise the Complainant to continue the policy and to avail with the policy benefits.

19. Reason for Registration of complaint: -

The complaint fell within the scope of Insurance Ombudsman Rules, 2017 and so, it was registered.

20. The following documents were placed for perusal: -

1. Complaint, a copy of policy document and correspondence,
2. Consent from Complainant in Annexure VI A and
3. SCN along with Consent from the Respondent Insurer and a copy of proposal form.

21. Result of personal hearing with both the parties (Observations & Conclusions):

The issue to be considered is whether the policy was mis-sold as alleged by the Complainant. During the personal hearing, both the parties reiterated their earlier submissions.

During the course of personal hearing the Complainant produced the Business cards of Ms Saraswathi, Executive who solicited the above mentioned policies, Ms Sinu George and Mr B.K.Harshavardhan who

confirmed the dismissal of Ms Sarawathi and accepted that she had mis-sold the policies. The RI also confirmed that they were aware of such wrong doings by Ms Saraswathi, and she was sacked 2 years ago. In view of this fact this Forum has no hesitation to say that the RI failed to protect the interest of Policy Holder by not re-checking the policies taken by the Complainant and the proposal forms having same telephone number filled through Ms Saraswathi.

If not at the stage when RI terminated the services of Ms Saraswathi, it was expected of the RI to check the impugned policies when the Complainant visited their office. Considering that 3 letters issued to the three policy holders by Ms Saraswathi on the letter head of Bharti AXA mentioning therein policy premium payment term is for 7 years which can be surrendered in the 8th year, the Complainants grievance that he was misled is established beyond doubt. Contention of the RI that the said letters were fabricated and were not authorised cannot be upheld, since the said letters were issued by the Company Executive under the logo of the company and seal.

Therefore the RI is vicariously liable for the actions/deeds of their employees/representatives. Hence, the RI is liable to refund the premiums along with interest from the day Complainant visited the RI on 24.03.2017 and informed the fact of mis-sale when Mr Harshavardhan and Ms Sinu George admitted that the services of Ms Saraswathi had been terminated. The intention to terminate the three policies was also made clear by the Complainant to the above officials of the RI. This is evident from the email sent by the Complainant to the above officials on 04.04.2017.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties during the course of the Personal Hearing, the Respondent Insurer is directed to refund premiums paid for the policies mentioned in Para (2) with interest at applicable Bank Rate + 2% Penal interest as laid down in Regulation 14 of IRDAI (Protection of policy Holders Interest) Regulations, 2017 from 24.03.2017. RI may deduct the mortality charges in the premium for the period policies were in operation as the Policyholder was covered for the risk of mortality during the said period.

The complaint is **Allowed**

22. Compliance of Award:

The attention of the Complainant and the Respondent Insurer is hereby invited to Rule 17(6) of the Insurance Ombudsman Rules, 2017, where under, the Respondent Insurer shall comply with the award within 30 days of the receipt of the Award and shall intimate compliance of the same to the Ombudsman.

Dated at **Bengaluru** on the 23rd day of May, 2018

(NEERJA SHAH)
INSURANCE OMBUDSMAN
FOR THE STATE OF KARNATAKA

PROCEEDINGS BEFORE THE INSURANCE OMBUDSMAN, STATE OF KARNATAKA

(UNDER RULE NO: 16/17 of THE INSURANCE OMBUDSMAN RULES, 2017)

OMBUDSMAN – NEERJA SHAH

Case of Mr PRAMOD T S V/s HDFC STANDARD LIFE INSURANCE COMPANY LIMITED

Complaint No: BNG-L-019-1718-0012

Award No: IO/BNG/A/LI/0025/2018-2019

1.	Name & Address of the Complainant	Mr Pramod T S # 282, 10 th cross, A Block AECS Layout, KUDLU BENGALURU -560068
2.	Policy No: Type of Policy Commencement of Policy/ Policy Period/PPT	18378979 HDFC Life Super Income Plan 31.03.2016/24 years (PPT 12 yrs)
3.	Name of the Insured Name of the policy holder	Mr Pramod T S
4.	Name of the Insurer	HDFC Standard Life Insurance Company Limited
5.	Date of Repudiation/ Rejection	24.06.2016
6.	Reason for Repudiation/ Rejection	Request not received within free look period
7.	Date of receipt of Annexure VI A	24.04.2017
8.	Nature of complaint	Mis sale
9.	Amount of claim	₹.3,00,000/-
10.	Date of Partial Settlement	Nil
11.	Amount of relief sought	₹.3,00,000/-
12.	Complaint registered under Rule No	13 (1) (c) of Insurance Ombudsman Rules, 2017
13.	Date of hearing/place	10.05.2018/Bengaluru
14.	Representation at the hearing	
	a) For the Complainant	Self
	b) For the Respondent Insurer	Mr Vinay Prakash, Senior Manager (Legal)
15.	Complaint how disposed	Allowed
16.	Date of Award/Order	23.05.2018

17. Brief Facts of the Case:

The complaint emanated from alleged mis sale by the Bank staff and the HDFC Branch Manager. As solicited, the Complainant paid money for an investment plan, but the RI issued regular insurance policy. Alleging mis sale, he submitted a complaint to the RI for cancellation of the policy and refund of premium paid, which was rejected. Then, he represented to the GRO of the RI, who also reiterated their earlier decision. Therefore, the Complainant approached this Forum.

18. Cause of Complaint: -

a) Complainant's argument:

The Complainant in his letter dated 20.03.2017 stated that he had paid an amount of ₹.3,10,890/- on 31.03.2016 for a good investment plan (SIP) as canvassed by bank staff of HDFC Bank & HDFC Life along with the Bank Branch Manager. It was informed to him that the plan would not continue beyond March of that year and premium was debited from his account on the same day. When he received the policy document, he noticed that it was a regular insurance plan which cannot be cancelled for another 12 years. He realised that he could not pay ₹. 3,00,000/- every year and was not interested in any insurance schemes and requested for cancellation twice. He also sent a mail on 03.05.2016 stating that he was writing to them within 30 days (i.e. 21 days) of receipt of the policy. And he again reminded on 18.06.2016 and the same was acknowledged by their Bangalore office. He also made several complaints to HDFC bank and HDFC Insurance but to no avail. The RI rejected his request for cancellation stating that the same was received after free look period.

He was told by the officials that he could cancel the policy at any time, but the policy received was quite contrary to the policy solicited. Then, he represented to the GRO for refund, they also rejected his request. Now, he requested the Forum, for a refund and to help come out of this miserable situation.

b. Respondent Insurer's argument:

The Respondent Insurer vide their SCN dated 02.05.2017, whilst confirming the issue of the said policy, based on the duly signed proposal form submitted by the Complainant.

The Complainant being a qualified/educated person and not a novice is well aware of these clauses in the opening page of the policy document since 2016. Only after being convinced and satisfied with the terms of the policy explained through agent and relevant sales literature, the complainant submitted the signed proposal form. He had declared and signed under declaration section that he had read and understood the terms and conditions.

The RI denied the allegations of the Complainant in toto, specifically the allegation of mis sale as he had admitted in the Pre Conversion Call that he had signed the proposal on free will and put them on strict proof of the same and confirmed all the details of the policy and issued the ECS mandate.

The Complainant failed to exercise his right under the clause option to return contained in the policy within 15 days of receipt of the policy (i.e. 12.04.2016).

They also stated that the policy is in lapsed condition for non-payment of subsequent premiums, therefore, they are not liable to make payment of the amount allegedly sought by the Complainant.

They made a reference of Honourable Supreme Court's ruling on Grasim Industries Ltd. vs Aggarwal Steel (Civil Appeal No. 5994of 2004) vide order dated 20.10.2009.

In light of the above, they prayed that Honourable Ombudsman may be pleased to dismiss the present complaint based on the Pre Conversion Call Recording as this is an established case of afterthought and stepping back from their own admissions on the call.

19. Reason for Registration of complaint: -

The complaint fell within the scope of Insurance Ombudsman Rules, 2017 and so, it was registered.

20. The following documents were placed for perusal: -

1. Complaint, a copy of policy document and correspondence,
2. Consent from Complainant in Annexure VI A and
3. SCN along with consent from the Respondent Insurer and a copy of proposal form.

21. Result of personal hearing with both the parties (Observations & Conclusions):

The crux of the issue is, whether the policy was mis-sold through false assurances by the employees of the RI and the HDFC Bank.

During the course of the personal hearing, the Complainant reiterated his earlier pleadings.

The Respondent on their part submitted before the Forum that they followed all the procedures while issuing policies as per IRDA guidelines. They made available PCVC call recording, wherein the Complainant had confirmed availing the policy but was raising queries to the RI's caller about the terms of the policy which were never categorically answered. Though the Complainant said (uncertain) yes, he continued to sound doubtful.

The Forum, after examining the documents on record, call records aforesaid and the averments of both the parties is convinced that it is a clear cut case of mis-sale. The Complainant was interested in Single investment plan with misleading name like Life Super Income Plan but was persuaded to purchase a traditional plan where he was required to pay for 12 years.

The RI's reliance on Honourable Supreme Court's ruling on Grasim industries Ltd. Vs Aggarwal Steel (Civil Appeal No. 5994 of 2004) vide order dated 20.10.2009 is misplaced and is not acceptable, as mis-sale has been established in this complaint.

The Forum also found that the Complainant had applied for cancellation of the policy within 21 days- 6 days after the expiry of the permitted waiting period. In this case before sending the email he had approached the banker (intermediary) twice in person for cancellation of the policy. Therefore the communication for cancellation of the policy is deemed to have made well within the free look period. Under these circumstances RI is liable to refund all the premiums paid till date with interest.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties during the course of the Personal Hearing, the Respondent Insurer is directed to refund premium paid by the Complainant with interest at applicable Bank Rate + 2% Penal interest as laid down in Regulation 14 of IRDAI (Protection of policy Holders Interest) Regulations, 2017. RI may deduct the mortality charges in the premium for the period policy was in operation as the Policyholder was covered for the risk of mortality during the said period.

The complaint is **Allowed**.

22. Compliance of Award:

The attention of the Complainant and the Respondent Insurer is hereby invited to Rule 17(6) of the Insurance Ombudsman Rules, 2017, where under the Respondent Insurer shall comply with the award within 30 days of the receipt of the Award and shall intimate compliance of the same to the Ombudsman.

Dated at **Bengaluru** on the 23rd day of May, 2018

(NEERJA SHAH)
INSURANCE OMBUDSMAN
FOR THE STATE OF KARNATAKA