

1. Death Claim

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 116

Smt. Jyoti H. Gurjar

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2003

Death Claim. Shri Harish J.Gurjar took two Policies No.861570599 and 872923186 with date of commencement on 28.5.2000 and 15.12.2001 respectively. He died in October 2002. Respondent treated the Policy No.861570899 null and void under section 45 and withheld their decision for the claim under Policy No.872923186. Hearing held.

Respondent, based on the claim form-B and Certificate of Hospital Treatment submitted by the Complainant argued that the DLA was suffering from diabetes and hypertension prior to 3 years of his death and this fact was not disclosed by the DLA. The Respondent could not produce the treatment papers of diabetes and hypertension to corroborate the past h/ o these diseases of the DLA as asked for by this office. However, they counter-argued vide their letter dated 9.1.03 that since the Complainant herself submitted the Form-B and Certificate of Hospital Treatments obtained by her, she was aware of the statements made by the doctors and if she had any objection as to the fact of the statements she should have protested and corrected it. The Respondent submitted that they have decided to pay ex-gratia payment to the Complainant against the claim under Policy No.872923186 in view of single premium Policy. It is observed from the Medical Attendant's Certificate in claim Form-B and certificate of hospital treatment submitted by the Complainant that the DLA was known case of diabetes mellitus and hypertension for 3 years prior to the date of his death. Repudiation of claim under Policy No.861570599 upheld. Since the Respondent offered Rs.29,913/- on ex-gratia basis under Policy No.872923156 the same is not discussed.

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diabetes and hypertension to corroborate the past h/ o these diseases of the DLA as asked for by this office. However, they counter-argued vide their letter dated 9.1.03 that since the Complainant herself submitted the Form-B and Certificate of Hospital Treatments obtained by her, she was aware of the statements made by the doctors and if she had any objection as to the fact of the statements she should have protested and corrected it. The Respondent submitted that they have decided to pay ex-gratia payment to the Complainant against the claim under Policy No.872923186 in view of single premium Policy. It is observed from the Medical Attendant's Certificate in claim Form-B and certificate of hospital treatment submitted by the Complainant that the DLA was known case of diabetes mellitus and hypertension for 3 years prior to the date of his death. Repudiation of claim under Policy No.861570599 upheld. Since the Respondent offered Rs.29,913/- on ex-gratia basis under Policy No.872923156 the same is not discussed.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 124

A. U. Makwana

Vs.

Life Insurance Corporation of India

Award Dated 31.10.2003

Policy No. : 811636810/11

Repudiation of death claim. Complainant is the husband of DLA Smt. J. A. Makwana. DLA had taken 2 Policies for S. A. of Rs.50,000/- each. Both Policies commenced on 8.6.2001 and she died on 7.8.2001 i.e. within 2 months. Respondent investigated the case. Investigation revealed that the DLA was a cancer patient and had undergone treatment for throat cancer prior to taking the insurance Polices. Documents on record were sufficient to decide the case. Therefore, hearing not held. It is observed from the documents the Laryngoscopy and biopsy were done on the DLA on 16.4.2001 and diagnosed the disease as throat cancer. This fact was wilfully suppressed by the DLA while proposing for the Policies. Repudiation upheld and dismissed the case without any relief.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 131

Smt. B. K. Mewada

Vs.

Life Insurance Corporation of India

Award Dated 24.11.2003

Policy No. : 812132303

Repudiation of death claim - Complainant, wife of the DLA. DLA died within a period of 1 year. Being an early claim, Respondent investigated the claim and found that the DLA had been suffering from DM and HT prior to his proposal for insurance. Certificate of Hospital Treatment also confirmed this fact. The h/o the DLA's disease was reported by the Complainant himself to the hospital authorities. The fact of his diseases was not disclosed by him while proposing for the insurance. It is observed that the DLA had been suffering from these diseases and he had not disclosed the fact of his existing disease thereby breached the utmost good faith. The Respondent's decision to invoke section 45 of the I.A 1938 to treat the Policy null and void upheld. Complaint dismissed without any relief.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 117

Smt. S. H. Patanwadia

Vs.

Life Insurance Corporation of India

Award Dated 28.11.2003

Policy No. : 872834196

Repudiation of death claim - Policy commenced on 28.1.2002 - LA died on 13.7.2002. Complainant argued that the Respondent's approved doctor had examined the DLA before he proposed for insurance. She further contended that the DLA's disease was cured before taking the Policy and therefore he might not have disclosed the fact of his existing disease and he treatments taken hereof. It is observed from the documents such as COT, MAC that the DLA had been suffering from Pulmonary Koch's as well as Alcoholic Chirrosis long back and these facts were not disclosed. Repudiation upheld.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 138

Smt. V. S. Upadhyay

Vs.

Life Insurance Corporation of India

Award Dated 11.12.2003

Policy No. : 872859355/872860467

Death claims - Complainant wife of DLA - DLA had two Policies, one for S.A. of Rs.50,000/- and another for S. A. of Rs.25000/- commenced on 15.9.2000 and 11.1.2001 respectively. DLA died on 6.2.2003 due to heart attack. Claim investigated and found that the DLA was suffering from Myocardial Infarction prior to commencement of the Polices. Documents were sufficient to decide the case. Hence, no personal hearing of parties held. It is observed that the DLA was suffering from myocardial infarction and had availed leave from his employer for a long period prior to the commencement of the Policies, the fact of which was not disclosed by him. Repudiation upheld.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 123

Smt. Mukesh P. Khiani

Vs.

Life Insurance Corporation of India

Award Dated 18.12.2003

Policy No. : 813857869

Death claim - S.A.Rs.1,00,000/- Policy commenced in July 2001 - LA died in February 2003 due to heart attack. Claim investigated. Investigation revealed that DLA was suffering from Ischemic Heart Disease prior to the proposal for insurance. Complainant submitted that the age of the DLA was 64 years and apart from routine medical report, ECG, BST & SPQ 001 reports were also submitted to the Respondent and accordingly, they granted the insurance on ordinary rate. He argued that if there had been any heart attack it would have reflected in the special tests like ECG, BST & SPQ 001. He denied the DLA's Ischemic Heart Disease before taking the Policy. Respondent argued that as per the COT given by a doctor,

the DLA was suffering from Ischemic heart disease and had taken treatment for 48 hours, probably in January 2001. It is observed from the ECG Report that the DLA had "left ventricular hypertrophy" problem and clearly knowing this fact the Respondent granted the insurance on "ordinary rate" which indicates that the Respondent was satisfied with all aspects of the proposal. It is further observed that the doctor gave the COT without referring to any case papers, but purely from the memory. It is surprising how the doctor could remember the exact diagnosis, treatments and medicines administered to the DLA even after two years, particularly when no case papers were available with the Hospital. Repudiation set aside. Directed the Respondent to pay the full SA with accrued bonus, if any. 8% simple interest also allowed on the admissible amount.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 140

Smt. H. K. Kathia

Vs.

Life Insurance Corporation of India

Award Dated 18.12.2003

Policy No. : 812736699

Death claim - Policy commenced in April 2002 - S.A Rs.50,000/-LA died in January 2003. From the various certificates and documents on record, it is observed that the DLA was on sick leave for 61 days from 1.12.2000 to 9.2.2001. He was also treated for his paralytic attack as an indoor patient from 6.12.2000 to 10.12.2000. The above facts have been confirmed by the Complainant herself in her letter to the Claim Review Committee. Respondent's argument that the DLA wilfully suppressed these material facts to take undue advantage of Policy benefits in the event of his early death found reasonable. Invoking the provisions of section 45 to treat the Policy null void justified. Case dismissed without any relief.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 139

Smt. Sangita S. Gondalia

Vs.

Life Insurance Corporation of India

Award Dated 18.12.2003

Policy No. : 812259359/812454438

Death claims - Complainant, wife of DLA - DLA had two Policies, one for S.A of Rs.50,000/- and another for S.A of Rs.25000/- commenced on 28.2.2001 and 15.12.2001 respectively. DLA died on 7.8.2002 due to AIDS. Claim investigated and found that the DLA was HIV Positive and had been suffering from Pleural Effusion prior to commencement of the Policies. Documents were sufficient to decide the case. Hence, no personal hearing of parties held. It is observed that the DLA was HIV Positive and he had been suffering from Pleural Effusion for last 3 years, the fact of which was not disclosed by him. Repudiation upheld.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 132

Shri S. A. Patel

Vs.

Life Insurance Corporation of India

Award Dated 9.1.2004

Death claim - DLA obtained a Policy No.870308167 for S.A of Rs.5/- lacs from Baroda city Branch No II of the Respondent under Jeevan Shree Plan. Policy commenced on 15.12.01. LA died on 18.8.02. The Respondent investigated the claim and found that the DLA had not disclosed the fact of his other Policy commenced on 15.12.01 issued by Chansma Branch under Gandhinagar Div. Office while proposing for this Policy and hence, repudiated the claim. The Complainant submitted that the DLA had disclosed the details of his earlier Policies No.851523991 and 851528864 taken from the Chansma Branch to the Agent, but, the Agent might have omitted to mention the details of Policy No.851528864 while completing the Proposal form in a hurry. He further submitted that the Respondent had settled the claims in full under both the Policies taken from Chansma branch, but, wrongly repudiated the claim under Policy No.870308167. Respondent argued that the DLA wilfully suppressed the fact of his earlier Policy No.851528864 with an intention to mislead them about the SUE. The Policy No.851528864 had SA of Rs.50,000/- having triple benefits and had he declared this Policy, the SUC including the subject proposal would have been Rs.6.5 lacs. Due to non-disclosure of this fact, the SUC was taken as Rs.5,00,000 only. It is observed from the records that the observations in the case papers dated 3.4.2002, Certificate of Medical Attendant and Hospital Treatment Certificate dated 2.10.02, Haemogram Report dated 4.4.2002, all are contradictory and hence, no reliance can be placed on them. Therefore, it is opined that the validity of these documents and the complicated question of facts are to be settled before arriving at a just and fair decision which are beyond the competence of this forum. Hence, the case dismissed without going into its merits.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 107

Shri M. P. Patel

Vs.

Life Insurance Corporation of India

Award Dated 27.1.2004

Policy No. : 870697530

Death claim - LA had taken a Policy for S.A of Rs.1/- lac in 1994. The Policy lapsed from 28-10-1996 and revived on 27.9.1999. LA allegedly died on 15.3.2002 i.e. within 2 years and 5 months after revival of the Policy. Respondent investigated the claim which led them to suspect that the DLA had died before the date of revival of the Policy based on the declarations collected from some persons of the native village of the DLA. The Complainant submitted that the DLA died on 15.3.2002 and the Gram Panchayat has issued the death certificate. The declarations made by the so called villagers are due to past enmity with the DLA that had arisen from political rivalry. The Respondent argued that the DLA had died much prior to 15.3.2002 and the Policy was revived on false declaration of his being alive. They submitted that the electoral list of 2002 did not show the name of the DLA whereas the electoral list of 1998 showed the name of the DLA including his family members. The Bank account of the DLA was also not operated after October 1998. The affidavit dated 5.7.2002 made by one L.L.Ghauhan stated that the DLA died on

15.3.2002. However, the affidavit of one Mr. A.I.Patel stated that the DLA had died two or two-and-a half years back. It is observed that the case cannot be decided in a just and fair manner since there are contradictory statements and affidavits on the date of death of the DLA. The date in the death certificate of Gram Panchayat and the materials collected by the Investigating officer are different and the authenticity of the certificate cannot be proved by this office. Case dismissed without going into its merits. Complainant can agitate the issue in an appropriate judicial forum, if so desired.

Ahmedabad Ombudsman Centre
Case No. LIC / 2 / 137
Smt. Ilaben D. Patel
Vs.
Life Insurance Corporation of India

Award Dated 28.1.2004

Policy No. : 861147377

Death claim. LA died due to heart failure. Respondent investigated the claim. Investigation revealed that the DLA had suffered from myocardial infarction prior to the date of proposal for the Policy. They repudiated the claim and forfeited the premiums paid. Respondent submitted copy of leave application of the Complainant and also copy of certificate issued by the Standing Medical Board of Surat Civil Hospital advising the DLA to undergo Angiography and also to do only light duty. They argued that all these facts were within the knowledge of the DLA, but, the DLA did not disclose these facts which prejudiced their underwriting decision. Since the DLA had breached the principle of utmost good faith which was the basis of an insurance contract, they treated the Policy null and void abinitio and forfeited the premiums paid. It is observed from the records that the Respondent had submitted with supporting documentary evidences to establish that the DLA had been suffering from myocardial infarction prior to the proposal for the Policy by various medical certificates of the treating physician. The certificate from the Standing Medical Board of Surat Civil Hospital further established this fact. The DLA had wilfully suppressed the material fact and evidently breached the principle of utmost good faith. Repudiation of claim and forfeiture of premiums upheld.

Ahmedabad Ombudsman Centre
Case No. LIC / 2 / 125
Smt. V. M. Sarang
Vs.
Life Insurance Corporation of India

Award Dated 9.2.2004

Death claim - DLA obtained two Policies No. 8600667044, 862469057. LA died within 2 years. Respondent rejected the claim on the ground of suppression of material facts. Complainant was not present in the hearing. Respondent submitted copy of hospital certificate and copies of sick leaves availed of by the DLA on various occasions for treatment of his kidney ailments and subsequent kidney transplantation. From the materials on record it is observed that the DLA had been suffering from Kidney disease since 1993 and he had wilfully and fraudulently suppressed this fact. Repudiation upheld.

Ahmedabad Ombudsman Centre
Case No. LIC / 2 / 133
Smt. J. V. Patel

Vs.

Life Insurance Corporation of India

Award Dated 10.2.2004

Death claim - DLA obtained a Policy No.862808026 for SA of Rs.5/- lacs in April 2002. DLA died on 10.7.2002 in USA due to his heart problem. DLA's mother appeared in the hearing. She submitted that the DLA had no health problem. Had he any h/o illness or congenital disease, the New York Life Insurance and Annuity would not have granted him a Policy and would not have settled the claim. Respondent submitted that the DLA did not disclose the fact of his stay in USA and his NRI status. In the Post-mortem report the DLA's weight was recorded as 254 lbs, but, his weight was 80 kgs at the time of the Proposal. Based on the County Coroner's Report, Respondent argued that the DLA had hypertensive heart disease, left ventricular hypertrophy, obesity, aortic dissection and all these findings were suggestive of his long standing hypertension, obesity that worsened the condition of the DLA leading to his death and these facts were not disclosed by the DLA and hence, their repudiation is right. It is observed that the non-disclosure of NRI status had not materially affected the underwriting decision of the Respondent, because, the NRI's were not debarred from obtaining Policies from Indian Insurers as admitted by the Respondent. Hence, the argument of non-disclosure of NRI status has no bearing on the admissibility of the claim. As regards the argument of the Respondent that the DLA had suppressed his weight and obesity at the time of proposal, it is observed that the weight recorded at the time of DLA's admission in the hospital in USA was 100 kg and after 14 hours of his death, the weight was recorded as 254 lbs (125 kgs). The Respondent conclusively could not establish that the DLA had suppressed his weight. According to Emergency Room Report the reason for hospitalisation was onset of sudden abdominal pain and loss of feeling in his legs as reported by his wife. Had she knew the Congenital Aortic Valve problem of the DLA, she would not have hidden the same from the hospital authorities. The Divisional Medical Referee, when contacted over phone during the hearing, opined that the DLA might not be aware of his heart problem, otherwise, he would have taken proper treatment available in USA. Respondent to pay Rs.5,00,000/- alongwith accrued benefits and 8% interest on it.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 145

Smt. Seema S. Singh

Vs.

Life Insurance Corporation of India

Award Dated 23.2.2004

Complainant, w/o the DLA, LA obtained a Policy No. 861416164 for SA of Rs.2/- lacs in 1997. Policy lapsed, but revived in Feb.2001. He died in May 2002 due to Cardia Respiratory failure caused by Pancreatitis. Respondent rejected the claim. Hearing held in Surat. Complainant was not present. Respondent submitted that they investigated the claim and found that the DLA had been suffering from diabetes mellitus and hypertension for 2 years prior to 29.4.02 when he was admitted in a hospital for the treatments. The DLA did not disclose this fact in his good health declaration. It is observed from the documents that the history of DM and HTN for 2 years was reported by the DLA himself to the attending doctor. He had also not disclosed this fact in his good health declaration. However, it is a matter of fact that the DLA's Blood Sugar Tolerance Report submitted to the Respondent while reviving the Policy was normal. Further, the Blood Pressure report recorded by the approved Medical Examiner of the Respondent was also normal. This office contacted the Divisional Medical Referee of the Respondent

during the hearing and sought his opinion whether there was a nexus between the suppressed history of DM and HTN and the death of the LA by Pancreatitis. He opined that there was no apparent nexus between the DLA's death by Pancreatitis and his h/o DM and HTN. Benefit of doubt given to the Complainant. Respondent to pay Rs.2,00,000/- with accrued benefit, if any alongwith 8% interest.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 127

Smt. S. P. Sakpal

Vs.

Life Insurance Corporation of India

Award Dated 01.3.2004

Death Claim - Policy commenced in Jan. 2001. LA died in Nov. 2002. Repudiation on the ground of suppression of material fact of breathlessness and palpitation prior to the proposal. Complainant submitted that her son experienced chest pain in July 2002 and their family physician Dr. Bharat Shah treated him for mild chest pain and palpitation. On recurrence of the disease, they consulted a heart specialist who diagnosed the disease as Mitral Valve Regurgitation. DLA was operated for replacement of valve, but died in the hospital. She argued that the proposal was accepted by the Respondent only after the DLA was declared fit by their Medical Examiner and hence, their plea for pre-existence of disease should not be accepted. Based on the treating surgeon's noting, the Respondent argued that the disease was pre-existing for 2 to 2-1/2 years and the DLA did not disclose this fact with malafide intention to benefit his family. On perusal it is observed that the Respondent's BM had conducted an inquiry into the claim and had concluded that the claim was genuine; No corroborative evidence that the DLA had specific knowledge of his disease prior to inception of Policy; No existence of such ailments could be detected by the Medical Examiner and opined that it is not appropriate to dispute their own ME's report; No evidence that medicine "Warfarm" was prescribed earlier by some other doctor other than the treating surgeon; No corroborative evidence that the DLA had taken treatments for Rheumatic fever, palpitation and breathlessness prior to the proposal. Referring to the Respondent's argument that Dr. Bharat Shah is a homeopathy doctor and his certification was not reliable, it is opined that this itself suggests that neither the DLA nor his family was aware of the nature of the disease. Further opined that the inception of the DLA's ailments if decided on an indicative range of duration of 2 to 2-1/2 years, it would be against natural justice and concluded that the DLA was not aware of his illness or symptoms at the time of the proposal for the Policy and hence, the question of DLA's non-disclosure or suppression of facts did not arise. Claim allowed for full SA with 9% interest.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 146

Smt. S. B. Anchan

Vs.

Life Insurance Corporation of India

Award Dated 08.3.2004

Repudiation of death claim - DLA proposed for various Policies in March 2000. Proposals were accepted in April 2000. LA died in July 2000 due to Carcinoma of Stomach with malignant Cachexia as certified by Century Hospital, Vapi. Respondent submitted that according to the

certificate of SCS Hospital, Mangalore, the DLA was admitted there due to pain and discomfort in abdomen as well as distention of abdomen for last 3 months. They argued that DLA's Carcinoma of Stomach was in the 3rd stage in the middle of May 2000 and the symptoms were known to the DLA before the date of Proposals; he was aware of the illness and its critical stage which was the reason for his choosing the insurance cover for total SA of Rs.9,00,000. They further argued that the DLA was under obligation to inform them the status of his health as per his declaration in the Proposal form. The Complainant submitted that while proposing for the insurance, the DLA had furnished special medical reports such as Blood Reports, ECG etc. and the Respondent accepted the proposals charging extra premiums due to extra risk involved. The DLA was in good health and his disease was diagnosed only after a few months of proposal and hence, the question of disclosing the same did not arise. Examined and perused the pros and cons of submissions and materials on record. It is observed that the Respondent had granted the Policies after categorising the DLA as substandard class-III life and had charged extra premiums. They had obtained special medical reports and based on such reports, their central office categorised him as substandard class-III life and charged extra premium. Hence, the argument of the Respondents that their underwriting decision was guided by the Proposal forms, is not true. In the enquiry report of the Sales Manager, he had recommended to obtain DMR's opinion before deciding the case, because, circumstantially, he believed the claim to be genuine. No corroborative evidences are available either to establish that DLA had undergone medical tests or treatments for Carcinoma of his stomach or to suspect that the seriousness of distention of stomach or the diagnosis of the illness was within the knowledge of the DLA before proposing for the insurance. When contacted the DMR during the hearing, he opined that without specific tests such diseases cannot be ascertained. There were no such evidences that such tests were carried out before the Proposal date and assumed that in all likelihood, the DLA was not aware of it. Benefit of doubt given to the Complainant. Respondent to pay the SA in the relevant Policies and accrued benefits if any, alongwith 9% interest.

Ahmedabad Ombudsman Centre

Case No. LIC / 2 / 115

Smt. R. B. Purabia

Vs.

Life Insurance Corporation of India

Award Dated 10.3.2004

Claim for full SA of Rs.5,00,00/- plus benefits - Policy commenced in Sept. 1996 - LA died in July 1999 due to fever. Respondent rejected the claim on the ground of suppression of material fact, but, GRC granted Rs.25,000/- on exgratia basis. Respondent submitted that they investigated the case and found that from 6.5.1996 to 20.5.1996 and from 14.10.96 to 31.10.96, DLA had been treated for cold and fever and bronchitis and according to their investigation report, the DLA was suffering from Tuberculosis. DLA neither disclosed the facts nor mentioned the fact of sick leaves availed of by him in the proposal form. They argued that after having received the FFS of Rs.25,000/- there should not have any cause to dispute on the part of the Complainant. Complainant submitted that her husband was not sick before proposing for insurance, but, the sick leaves were availed of under the pretext of sickness were only to get it sanctioned from the Employer. She stated that the Respondent refused to make payment till the full and final discharge was given to them and argued that it was the understanding given by the Development Officer/Agent that balance

amount will be given to her later on. In this case, the dispute was on the DLA's pre-existing illness and his wilful suppression of fact with fraudulent intention. On perusal, it is observed that the Policy was granted without any medical examination. As regards the sick leaves taken, it is opined that it is not uncommon amongst the employees taking sick leaves on false grounds. As per record, the 15 days SL obtained from 6.5.96 was around 4 months back of the proposal and 18 days SL took in Oct. 1996 and 9 days in 1999 were for the entire post-policy period; there are no other records of SL for 2 years and 10 months. So, the leave record is not suggestive of any serious h/o chronic ailments or to suspect that the DLA having been continuously sick due to Tuberculosis during prior to or post-policy period. Nothing could be established with corroborative evidence to justify their repudiation action. Respondent's plea concerning to full and final voluntary discharge of the Complainant is also not sustained. Exgratia settlement set aside. Respondent to settle the claim on SA of Rs.50,000/- with accrued benefits. 9% interest also granted on the admissible amount from the date of exgratia payment.

Bhopal Ombudsman Centre
Case No. LI-21-167/02-03/BPL
Smt. Seeta Raghuwanshi
Vs.

Life Insurance Corporation of India

Award Dated 6.11.2003

Brief Background

Shri Omprakash Raghuwanshi had taken a life insurance policy no.351279312 for a Sum Assured of Rs.1,00,000/- under Table and Term 75-20, the risk of which assumed from 28.10.1993, from Life Insurance Corporation of India, Divisional Office, Bhopal (BO-III, Bhopal). The policy was revived on 22.1.1997/ 7.9.1998 and on 24.2.2001 on the strength of Declaration of Good Health by the DLA. The DLA died on 21.12.2001 of 'Cancer (Rt.) Buccal Mucosa'. Smt. Seeta Raghuwanshi wife and nominee under the above policy, preferred death claim under the subject policy with the Respondent. The Respondent submitted that paid-up value for Rs.40,500/- (Rs.7,000 Paidup + Rs.33,500/- bonus) was settled under the Policy treating the revival dated 24.2.2001 as null and void as the DLA did not disclose information about his health in the Declaration of Good Health (in short DGH). Aggrieved by the decision of the Respondent, the Complainant approached this office.

CONCLUSION

It is concluded that there is wilful concealment of vital information relating to the health of the DLA in the DGH dated 24.2.2001 submitted by him for revival of the subject policy. It is evident from documents on record that the DLA was suffering from Cancer and was admitted several times in the above Hospital, but this fact was withheld by the DLA while declaring about his health for revival of the lapsed policy. Therefore, there was suppression of material fact by the DLA regarding his health at the time of revival of the policy on 24.2.2001. Had the fact been disclosed truly, the Respondent would have called for detailed medical report on his health based on which their underwriting decision to revive the policy could have been different, deferred or even the revival could have been denied. So, the Respondent's decision to revive the policy on 24.2.2001 was obviously prejudiced due to suppression of material fact by the DLA in all likelihood with fraudulent intention to get undue benefit under the Policy in the probable event of his death due to the serious sickness he had been suffering from.

In view of foregoing facts and circumstances, it is held that the decision of the Respondent treating the revival dated 24.2.2001 null and void is in order and not arbitrary. Consequently, the complaint is dismissed without any relief.

**Bhopal Ombudsman Centre
Case No. LI-21-141/02-03/IND
Smt. Sushila Bai Chouhan**

Vs.

Life Insurance Corporation of India

Award Dated 6.11.2003

Brief Background

Smt. Sushila Bai Chouhan has preferred a complaint in this office to the effect that her husband Shri Shankar Lal Chouhan had taken a life insurance policy from LIC of India, Divisional Office, Indore (Branch, Khargone) bearing no. 341533496 for a Sum Assured of Rs.50,000/- under Table & Term 14-20 the risk of which assumed from 28.1 1.1998. The DLA died on 22.5.2000 due to Heart Failure. The DLA was an employee of Telcom Deptt., Sendhwa. The policy had run for 1 year, 5 months and 24 days. She alleged in the complaint that the claim under the above policy was denied by the Respondent on the ground that the DLA had not disclosed details of leave on medical grounds in the proposal form. Agonized by the decision of the Respondent, the complainant approached this office.

CONCLUSIONS :

Section 45 of Insurance Act was not applicable as the claim was repudiated by the Respondent within 2 years. From the Proposal form dated 13.11.1998 submitted by the DLA, it was observed that the answer to the query no.15(a) i.e. "Have you taken leave for any disease for 7 days or more and consulted any doctor?" was given in negative by the DLA. The negative answer to the above question clearly shows that the DLA". had intentionally withheld the details of leave taken by him on medical ground because, the Employer's Certificate speaks otherwise. From the record, it is also observed that the Zonal Office of the Respondent, taking a lenient view, granted ex-gratia of Rs.10,000 under the policy. Held that there is no merit in the case to interface with the decision of the Respondent. Complaint is dismissed without any relief.

**Bhopal Ombudsman Centre
Case No. LI-22-21/03-04/RPR
Smt. Seema Kapoor**

Vs.

Life Insurance Corporation of India

Award Dated 6.11.2003

Brief Background

Smt. Seema Kapoor (hereinafter called Complainant) lodged a complaint in this office to the effect that her husband Shri Girish Kagoor (hereinafter called Deceased Life Assured in short DLA) had taken following policies from LIC of India, Divisional Office, Raipur (Branch Office-I, Korba (hereinafter called Respondent) under the Salary Saving Scheme of the Respondent. Under this Scheme, premium was being deducted every month from the salary of the DLA by the employer of the

DLA and remitted to the Respondent. The DLA was an employee of IBP Co. Ltd., Korba.

Unfortunately, the DLA died on 11.1.1994 due to heart attack. The Complainant preferred claim under the above policies with the Respondent. The Respondent settled full claim under Policy no. 57954521 and paid up value under Policy no.380790328 whereas the claim under the policy no.380810464 was denied by the Respondent on the ground that the policy was in lapsed condition owing to non-payment of premiums. Agonized by the decision of the Respondent, the Complainant approached this office.

CONCLUSION :

It is clearly established that there was a gross negligence and deficiency of service on the part of M / s. IBP Co. Ltd. (Paying Authority) in not remitting to the Respondent the DLA's monthly premiums deducted from June, 1993 to Jan. 1994 and also gross negligence and deficiency of service on the part of the Respondent in not following up with the Employer (Paying Authority) of the

DLA for the unpaid premiums for the said months in accordance with their systems under the Salary Saving Scheme. Unless the fact is brought to the notice of the DLA by the Respondent, the DLA had no means to know whether the deducted amount has been remitted to the Respondent or not. Therefore, the DLA could not be held responsible for such deficiencies on the part of M/s. IBP Co. Ltd. (Paying Authority) and the Respondent. So far as DLA was concerned all premiums were deducted from his salary from June, 1993 to Jan.1994 and hence deemed to have been paid to the Respondent through their Paying Authority. Therefore, the Respondent can not treat the above Policy no. 380790328 and 380810464 as lapsed from June, 1993 and shall have to honour their full liability as per the Policy terms treating the Policy no. 380790328 and 380810464 as in force as on the date of the DLA' death.

Held that the Respondent's decision to settle the claim for restricted amount of Rs.14,875/- as paidup value under Policy no. 380790328 and denying the claim liability under policy no. 380810464 is unreasonable and unsustainable. Directed that the Respondent shall honour their liability in full in terms of the Policy no. 380790328 and 380810464 and pay the claim amount after deducting the amount already paid under the Policy no. 380790328 with interest.

**Bhopal Ombudsman Centre
Case No. LI-24-121/02-03/RPR
Shri Murari Lal Tamrakar**

Vs.

Life Insurance Corporation of India

Award Dated 6.11.2003

Brief Background

Shri Murarilal Tamrakar lodged a complaint in this office stating that he preferred death claim under Policy no. 381335543 - Table & Term 88-15 - Sum Assured Rs.1,00,000 - Date of Commence-ment 28.3.1994 - on the life of late Smt. Premalata Tamrakar on 20.2.2001 with the Life Insurance Corporation of India, Divisional Office, Raipur (Branch Office, Mungeli). He complained that till the date of complaint in this office i.e. 20.8.2002, the claim was not settled by the Respondent.

The Respondent submitted that the DLA committed suicide by drowning herself in a water pond on 31.5.1998. The claim was preferred by the Complainant Shri Murari Lal Tamrakar, who was nominee under and policy and also husband of the DLA. The husband of DLA who happened to be nominee under the policy has acted in

such a way that DLA committed suicide. Court proceedings were called for. As per the judgement of the Court, with continuous physical and mental torture the husband of the DLA had instigated the DLA to commit suicide and under Section 498A of IPC the Complainant was convicted on the charge of having murdered the DLA and awarded two years imprisonment and Rs.2,000/- fine.

CONCLUSION

From the documents, it is observed that the Complainant who was also nominee under the Policy was convicted by Court and was awarded 2 years imprisonment and Rs.2,000/- fine. Consequently, it is concluded that the decision of the Respondent that claim was not payable to the Complainant in the light of their special manual provision, need not be interfered with. With this observation, the complaint is dismissed without any relief.

Bhopal Ombudsman Centre
Case No. LI-78-21/03-04/BPL
Shri Nirmala Sharma
Vs.
Life Insurance Corporation of India

Award Dated 7.11.2003

Brief Background

Shri Badriprasad Sharma had taken a life insurance policy from LIC of India, Divisional Office, Bhopal (Branch Office, Biaora) bearing policy no. 351716682 under Table & Term 14-11 for a Sum Assured of Rs.50,000/- commencing from 22.6.2001. The Life Assured died on 15.10.2001 of 'Carcinoma Lung'. The death claim was preferred by the Claimant with the Respondent. The Claim was repudiated by the Respondent on the ground that the DLA had suppressed material facts in the proposal form submitted to the Respondent for insurance. The decision of repudiation was conveyed to the Claimant by the Respondent on 28.12.2002. Aggrieved by the decision of the Respondent, the claimant Smt. Nirmala Sharma preferred this complaint.

The Respondent in their reply has contended that the DLA had given answers to the queries relating to his history of past illness in the Proposal Form submitted for insurance in negative whereas he was suffering from PI.Effusion (Lt.) since 4 months from the date of commencement of the Policy i.e. 22.6.2001. They further contended that the DLA had taken treatment for Tubercular Pyothorax for which the DLA was on medical leave from 2.2.2001 to 26.2.2001 (25 days) and 17.3.2001 to 26.4.2001 (41 days) .

CONCLUSION

On perusal of documents on record it is clear that the DLA was Sick prior to taking insurance as is evident from the Copy of Certificate dated 26.4.2001 issued by the Superintendent, L.B.S. Hospital & Research Centre, Bhopal which shows that the DLA was admitted in the above hospital from 17.3.2001 to 19.3.2001 and the disease was diagnosed as Tubercula Pyothorax. The aforesaid Certificate further states that the DLA was under the treatment of Superintendent, L.B.S. Hospital & Research Centre, Bhopal from 17.3.2001 and was advised rest upto 26.4.2001. Copy of 'Medical Certificate Return to Duty' dated 9.2.2001 and 26.2.2001 issued by the Medical Officer, Primary Health Centre, Narsingharh also mentions that the DLA was required rest for 15 days as he was suffering from PI.Effusion (Lt) and the DLA

was under the treatment of the Medical Officer, Primary Health Centre from 2.2.2001 to 26.2.2001. From a perusal of the Proposal Form, it is observed that the DLA had given answers relating to health problem queries as 'NO'. The DLA also mentioned his health condition as 'Healthy' in the Proposal form. As such, it is a case where material information was suppressed wilfully and knowingly by the DLA. There is also direct nexus between the suppressed information of the aforesaid disease and the terminal disease of the DLA. Had he disclosed the above information at the proposal stage the underwriting decision of the Respondent would have been different. It is well settled that a contract of insurance is contract uberrima fides and there must be complete good faith on the part of the Assured. The Assured is thus under solemn obligation to make full disclosure of material facts which may be relevant for the Insurer to take into account while deciding whether the proposal should be accepted or not. While making a disclosure of the relevant facts, the duty of the Assured to state them correct cannot be diluted. Found that there seems to have been deliberate attempt by the DLA to suppress material information while proposing for the insurance which had prejudiced the subject contract of insurance. Therefore, the decision of the Respondent to repudiate the claim is upheld. The Complaint is, thus, dismissed without any relief.

**Bhopal Ombudsman Centre
Case No. LI-24-112/02-03/SDL**

Shri Mahangu Lal Gupta

Vs.

Life Insurance Corporation of India

Award Dated 7.11.2003

Brief Background

Smt. Champa Devi had taken Life Insurance Policy bearing no. 377593282 under Table and Term 14-10 for a Sum Assured of Rs.38,000/- with risk commencing from 28.5.2000 from LIC of India, Divisional Office, Shahdol (Branch Office, Chirimiri). The DLA died on 14.7.2001. Shri Mahangu Lal Gupta, husband of the DLA had preferred death claim under the above Policy. The Complainant stated in the complaint lodged in this office that the claim under the said policy had not been settled by the Respondent despite the fact that all the required documents had been submitted by him. As the Respondent has not paid any attention, he approached this office for settlement of claim.

The Respondent submitted that they had received only the first premium of Rs.4,366/- under the Policy. As the subsequent yearly premium due 28.5.2001 was not paid before the death of the DLA, the policy lapsed without acquiring paidup value as per Policy Condition.

Having considered all the material on record and in view of the fact that the Complainant could not adduce any document which shows that the yearly premium due on 28.5.2001 was paid, the decision of the Respondent to repudiate the claim liability on the ground that the said policy was in lapsed condition on the date of death of the DLA due to non-payment of premium due on 28.5.2001, need not be interfered with. With this observation, the complaint is dismissed without any relief.

**Bhopal Ombudsman Centre
Case No. LI-21-21/03-04/IND**

**Smt. Santosh Bai Vijayvargiya
Vs.
Life Insurance Corporation of India**

Award Dated 7.11.2003

Brief Background

Shri Trilokchand Vijayvargiya had taken a life insurance policy bearing no. 342619115 under Table & term 14-16 for a, Sum Assured of Rs.1,00,000, the risk of which assumed w.e.f. 28.11.2001 from Life Insurance Corporation of India, Divisional Office, Indore (Branch Office, Burharpur). The DLA died on 10.11.2002 after the policy ran to 11 months and 12 days, due to cancer in throat. Smt. Santosh Bai Vijayvargiya, wife and nominee under the above policy, preferred death claim with the Respondent. The claim was rejected by the Respondent on the ground that the DLA was a Bidi Smoker since 15-20 years prior to date of proposal. This fact was not disclosed in the Proposal Form. Agonised by the decision of the Respondent, the Complainant lodged complaint with this office.

CONCLUSION

From the record, it is observed that the DLA had taken the subject policy for a Sum Assured of Rs.1.00,000 at the age of 50 and he was having no other policy barring the subject policy as is evident from the Proposal Form. As such, first insurance at that higher age and for a large Sum Assured leaves us to suspicion. The copy of Case History Sheet/Bed Head Ticket obtained from K.E.M. Hospital, Mumbai and furnished by the Respondent speaks that the DLA was a chronic beedi smoker for the last 15 years. It is pertinent to mention that the DLA died of cancer in throat. Consequently, there was nexus between the terminal disease and the DLA's habituated beedi smoking. As stated above, the DLA had given negative answer to question no. 15(j). Had he disclosed this fact, the Respondent would have called for Special Questionnaire meant for Smoking as per their underwriting norms and on the basis of the same, the proposal would have been underwritten by the Respondent by calling for special medical reports, if required. Consequently, non-disclosure of above material fact by the DLA at the proposal stage seems to have prejudiced the underwriting decision of the Respondent as contended by the Respondent. The DLA died within 1 year of the date of his proposal for the subject Policy and as per medical certificate on record he had been experiencing pain in the areas of his neck for 5 months before death which was finally diagnosed as Cancer in Larynx. All these very strongly suggest that the DLD did not disclose the symptoms of his illness in the proposal form which he had been in all likelihood suffering from at that time apart from his addiction to Bidi smoking for previous 15 years.

In view the foregoing facts and circumstances, it is observed that the DLA had given untrue statement and suppressed material information in the Proposal Form misleading the Respondent to assess the risk properly. Consequently, it is hereby held that the decision of the Respondent to repudiate their claim liability under the subject policy is sustained and the complaint is dismissed without any relief.

**Bhopal Ombudsman Centre
Case No. LI-21-150/02-03/GWL
Smt. Mamta Rani Jain
Vs.**

Life Insurance Corporation of India

Award Dated 7.11.2003

Brief Background

Smt. Mamta Rani Jain lodged a complaint dated 18.10.2002 with this office alleging that death claim under Policy no. 20036437 - Table & Term 14-5 - Sum Assured Rs.1,00,000/- on the life of Late Shri Munna Lal Jain who died on 23.9.2001 due to Renal Failure, was repudiated by Life Insurance Corporation of India, Divisional Office, Gwalior on the ground of suppression of material fact in the Proposal form submitted for policy no. 20035437.

FINDINGS:

During hearing, the Complainant had stated that the DLA suffered heart attack on 26.12.2000 and was admitted for 6 days in the hospital. As such, it was directed to file case papers in respect of the DLA's reported heart attack on 26.12.2000. Complainant vide letter dated 1st July, 2003 had brought on record a copy of Discharge Summary issued by Arun Memorial I.C.U., Gwalior. On perusing the said Discharge Summary, it is observed that the DLA was admitted in the Hospital on 26.12.2000 and was discharged on 2.01.2001 and the diagnosis was "Acute Inferior Wall MI c HTN c Variable Degree AV block" and the condition on discharge of the DLA was 'Stable'.

Opined that the DLA was sick at the time of completion of Proposal. It is also observed that the DLA had withheld material information regarding particulars of his previous policy no. 200211812 while proposing for the subject policy. There was nexus between the disease for which the DLA was admitted in the hospital and the report i.e. ECG which would have been called for by the Respondent had the DLA disclosed the same. The intention of the DLA for such suppression is not clear. However, suppression of this material fact has misled the Respondent to assess the risk correctly. Had he disclosed his previous policy and his heart ailment, the Respondent would have called for detailed medical record and Special Reports to assess the risk properly. It is well settled that a contract of insurance is contract of uberrima fides and there must be complete good faith on the part of the Assured

Held that the decision of the Respondent to repudiate the claim is just and fair. The Complaint is, thus, dismissed without any relief.

**Bhopal Ombudsman Centre
Case No. LI-10-24/03-04/BPL
Smt. Anjali Patrikar
Vs.**

Life Insurance Corporation of India

Award Dated 12.2.2004

Brief Background

Shri Arun Patrikar had submitted a proposal no. 3442-37B with the Respondent on his life for a Sum Proposed of Rs.30,000/- for which he had deposited Rs.1,350/- and Rs.80/- vide Receipt no.3510, dated 13.11.2000 and 3925, dated 24.11.2000 respectively. Unfortunately, the DLP was murdered on 9.12.2000. The claimant and wife of the DLP, Smt. Anjali Patrikar lodged claim under the above Proposal with the Respondent. As the claim amount was not received by the Complainant till 24.3.2003, she has approached this office with a complaint.

The Respondent submitted that after scrutiny of the Proposal, it was found that Standard Age Proof was not submitted by the DLP. It was further submitted that in

the Medical Report submitted alongwith the Proposal, the name of the Proposer was mentioned as "Anil Patrikar" instead of "Arun Patrikar". As such, the Respondent had sent letter dated 4.12.2000 which was reportedly despatched on 19.12.2000 calling for the above documents. The Respondent further submitted that for want of above requirements viz. Standard Age and Medical Report in the name of Shri Arun Patrikar i.e. D.L.P., the Proposal could not be completed resulting into an 'unconcluded contract. Therefore, the claim was not admissible as the contract of insurance was not concluded as on 9.12.2000.

FINDINGS

The contention of the Respondent that the DLP had not submitted Standard Age Proof with the subject Proposal does not appeal to reason in view of the fact that the age of the DLP was admitted by the Respondent under previous policy, the claim of which was settled by the Respondent. Respondent failed to produce the Proposal Form and the above Medical Report submitted by the DLP under the subject proposal to verify the contention of the Respondent that the name of DLP was mentioned as 'Anil Patrikar' instead of 'Arun Patrikar'. Therefore, in the absence of the documents i.e. Proposal Form and Medical Report, the contention of the Respondent that as the name in the Medical Report was mentioned as 'Anil Kumar Patrikar', fresh Medical Report was called for, is not sustainable and not sound in law.

Even though the contract was not completed under the subject proposal, it is evident from the records and submissions that it was primarily due to deficiency in service by the Respondent, Therefore, looking at the totality of the case, it may be reasonably concluded that the complaint merits for settlement on an ex-gratia basis. Therefore, in all fairness of justice and equity, the claimant shall be entitled to exgratia payment to the extent of Basic Sum Assured.

The Respondent shall be liable to settle Double Accident Benefit also on ex-gratia to the extent of Basic Sum Assured as stated above. Thus, the Respondent is directed to pay the Nominee under the subject Proposal the Policy benefits of Basic Sum Assured and DAB both on ex-gratia basis.

**Bhopal Ombudsman Centre
Case No. LI-15-24/03-04/IND
Smt. Shakuntala Banodha**

Vs.

Life Insurance Corporation of India

Award Dated 12.2.2004

Brief Background

Shri Chandmal Onkarlal Banodha had taken life insurance policy no. 341269842 under Table and Term 106-15 for a Sum Assured of Rs.50,000/- commencing from 16.6.1998 from LIC of India, Branch Office, Mandsaur functioning under Divisional Office, Indore (hereinafter called Respondent). He died on 30.4.2001. Smt. Shankutala Banodha, wife and nominee under the subject policy, lodged claim with the Respondent. The Respondent vide their letter dated 5.1.2002 disowned their liability stating that the DLA had suffered from high fever and skin disease after submission of Proposal dated 18.3.1998 but before its acceptance/issuance of First Premium Receipt (in short FPR) dated 16.6.1998, for which he availed leave on medical ground from 12.6.1998 to 21.6.1998 and this fact was not communicated by the DLA. Being aggrieved by the decision of the Respondent, the Complainant approached this office.

FINDINGS

The Respondent on the basis of the document i.e. Form 5152 and Medical Certificate issued by Dr. Badrinarayan Sharma arrived at a conclusion that the DLA was sick in between 18.3.1998 i.e. date of Proposal and 16.6.1998 i.e. Date of First Premium Receipt and this fact was not communicated by the DLA. Hence, the claim was repudiated on the ground of suppression of material information. From the record, it is observed that the Proposal was registered in the office of the Respondent on 18.3.1998 and after a lapse of 2 months and 28 days, the proposal was accepted and FPR was issued on 16.6.1998. The record further reveals that there was no requirement to be called for from the DLA. The representative of the Respondent could not adduce any satisfactory reason for the inordinate delay. Therefore, it may be concluded that the Respondent failed to discharge their duty in a reasonable dispatch and acted in a deficient manner.

From the record it is observed that there was no other document except the Medical Certificate and Form no.5152 issued by Dr. Badrinarayan Sharma, which shows that the DLA had been treated by some other doctor prior to submission of the proposal or in between the aforesaid dates. Hence the evidence of the above documents issued by Dr. Badrinarayan Sharma, relying on which the decision of repudiation was taken by the Respondent, in the absence of other supporting documents is little and not sustainable particularly when the same doctor certified him fit from 21.6.1998. The Policy having run for more than 2 years second part of Section 45 of the Insurance Act, 1938 will apply in the present case.

Respondent could not establish by adducing any convincing documentary evidence that the DLA had deliberately and fraudulently suppressed the material information to defraud the Respondent.

The documents on record do not establish the cause of death of the DLA. The Respondent contended that the DLA died of allergy but no medical evidence of the same is on record. Therefore, nexus between alleged suppression and the cause of the death remains to be established. Thus, applicability of Section 45 of the Insurance Act, 1938 is not clearly established.

Held that the Respondent's decision to repudiate the subject claim is not sustained. The Respondent is, therefore, directed to settle the full claim with all accrued benefits under the subject Policy alongwith a simple interest of 8% per annum calculated from the date of submission of essential claim papers by the Complainant till the date of satisfaction of this Award.

Bhopal Ombudsman Centre

Case No. LI-46-21/0304/JBL

Smt. Sailesh kohli

Vs.

Life Insurance Corporation of India

Award Dated 23.3.2004

Sri Vikram Kumar Kohli had taken a life insurance policy No. 370879082 from LIC of India, D.O.- Jabalpur for Sum Assured Rs.1,00,000 under T/T-111-20 with D.O.C. 10.12.1996. The subject policy had lapsed due to non-payment of premium. It was revived on 11.2.2000 on strength of D.G.H. L.A died on 12.2.2002 due to heart attack. Claim was preferred. Respondent settled paid-up value treating the revival null and void since the DLA had not disclosed the fact that he was suffering

from Hypertension and was hospitalized for treatment of abscess prior to revival of policy.

Documents show that the DLA had history of hypertension prior to revival of policy since he was taking treatment for hypertension from 9.5.1999. There was willful suppression of material fact at the time of revival in order to revive a policy of large sum with fraudulent intention.

Held that the decision of the respondent to treat the revival as null and void and repudiate the claim is just and fair, hence sustained.

Bhopal Ombudsman Centre

Case No. LI-41-21/03/04/IND

Smt. Sumitra S Mahajan

Vs.

Life Insurance Corporation of India

Award Dated 22.3.2004

Smt Sumitra S. Mahajan had taken a life insurance policy no 342623627 from LIC of India, D.O.-Indore with S.A- Rs.25,000, T/T-91-21 with date of proposal 30.5.2002 and date of acceptance 3.6.2002. L.A died on 10.7.2002 on account of Renal Failure. The Respondent rejected the claim on the ground of non-disclosure of information with regard to illness in the proposal form.

Observed from Claim form B1 that the DLA had history of CRF with anemia for last 1-2 months. Hospital record shows that the DLA had complaint of 'pain in abdomen', 'Nausea', 'Body ache' and 'distension of abdomen' for last one month.

Held, that from the nature of illness and the close proximity between the date of proposal and date of death it can be reasonably assumed that the illness had incepted much prior to the date of proposal. Respondent's decision to repudiate the claim is upheld.

Bhopal Ombudsman Centre

Case No. LI-107-21/03/04/IND

Shri Ajay Kumar Agarwal

Vs.

Life Insurance Corporation of India

Award Dated 22.3.2004

Smt. Manisha Agarwal had taken two life insurance policies numbering 342249581 & 342253150 from LIC of India Indore D.O. The DLA died on 4.12.2002 on account of burn injuries while working in the kitchen. Shri Ajay Kumar Agarwal, husband and nominee under the policy lodged claim under the subject policies. Respondent citing clause 4(b) of the policies refunded the premium without interest.

Held, that the Respondent decision to refund premiums under the policies without interest in terms of clause 4(b) is just and fair. Decision sustained.

Bhopal Ombudsman Centre

Case No. LI-92-24/03/04/IND

Smt. Sarita Baj

Vs.

Life Insurance Corporation of India

Award Dated 22.3.2004

Shri Chandra Kumar Baj had taken three life insurance policies numbering 81718411, 341647449, 341637872 from LIC of India, D.O.- Indore. Smt. Sarita Baj, widow of the DLA and nominee under the policies stated that her husband was an employee of IFFCO Laboratories, Indore and that he died on 26.1.2003 due to lungs failure. She stated that on 11.1.2000 a honeycomb had accidentally fallen on him and he was stung by large number of honeybees. He was treated in the hospital and after 5 days he was discharged. He resumed duties from 25.1.2000. He had complaint of breathing after one month and one honeybee was removed from his ear. Pathological tests showed that he had lung disease. In July 2002 he again had some problem which was diagnosed as heart related problem and was cured after treatment. His problem of breathing continued to increase, he lost weight and eventually died on 26.1.2003. Complainant preferred claim to the Respondent. Respondent settled death claim for basic sum assured promptly. Complainant prayed for Accident Benefit on the ground that the death was due to the Accidental fall of the honeycomb on the LA. Respondent denied Accident Benefit on the ground that the honeycomb had fallen on the LA on 11.1.2000 and he died of lungs dysfunction on 26.1.2003 i.e., after 3 years from the incident which does not satisfy the policy condition 10-1(b).

Held, that as per clause 10.1 (b) of the policy Complainant is not entitled to 'Double Accident & Benefit under the subject claim and hence the Respondent's decision is upheld.

**Bhopal Ombudsman Centre
Case No. LI-106-21/03/04/RPR**

**Smt. Gautam Bai
Vs.**

Life Insurance Corporation of India

Award Dated 22.3.2004

Sri Ankla Rarn Dhankar had taken life insurance policy number 382671882 from LIC of India, D.O. Raipur for Sum Assured of Rs.25,000/- under TIT 14-10 with D.O.C. 28.2.2002. The LA died on 29.5.2002 due to heart attack. Smt. Gautam Bai, wife and nominee under the policy preferred claim with the Respondent. Respondent repudiated the claim on the ground of suppression of material facts by the DLA in the proposal form.

Observed that the DLA had taken leave from 8.10.2001 to 21.11.2001 for his own treatment . DLA had undergone G.I.Endoscopy on 12.10.2001 which was not disclosed by him in the proposal.

Held, that the decision of the Respondent to repudiate the claim is just and is upheld.

**Bhubaneswar Ombudsman Centre
Case No. I.O.O./BBSR/21-120**

**Smt. Sanjukta Patra
Vs.**

Life Insurance Corporation of India

Award Dated 24.12.2003

Happened - that late Bijaya Kumar Patra having policy no. 583561165 with date of commencement 28.03.01 sum assured one lakh and Table & Term 124-15, died on 20.04.02. His wife-nominee Smt. Sanjukta Patra lodged a claim for death benefits in LIC of India, Nimapara

Branch under Cuttack Division. But LIC repudiated the claim on the ground that the policy was lapsed.

Complained - that the non-deduction of renewal premium from salary was not his fault. The premiums from Nov'01 to February'02 could not be deducted by his employer due to the fact that no salary was paid for these months for want of grant from State Government of Orissa, Moreover, since her husband had authorized for salary deduction it was the responsibility of his employer and LIC to ensure deduction. Even her husband did not receive any notice or intimation from them as to the gaps in premiums.

Countered - by LIC that the policy was not in force at the time of death. Hence no claim was payable. The policyholder also could not evade responsibility for non-deduction as he was aware about the same.

Observed - that the policy was in fact in lapsed condition due to non-payment of premium from 11/01 to 2/02. Even though the policy was under Salary Savings Scheme, the employer could not deduct the premiums due to non-receipt of grant from Govt. of Orissa. The insured also did not take any initiative in this regard, for depositing the gap premiums as required by the SSS authorization letter. On the part of LIC, they should have sent default notice and lapse notice to the policyholder which they have not done.

Held - that all premiums paid be refunded to the complainant nominee on exgratia basis. Recommended to LIC to refund the premiums within 15 days of receipt of consent from the complainant.

Bhubaneswar Ombudsman Centre

Case No. I.O.O./BBSR/21-136

Smt. Sukanti Singh

Vs.

Life Insurance Corporation of India

Award Dated 24.12.2003

Happened that the Akhaya Ch. Singh had taken a LIC policy no. 584426579 for a sum assured of Rs. 50,000/- commencing from 28.08.01. The said life assured died on 18.06.02, the cause of death being right side pneumonia. Smt. Sukanti Singh, the wife-nominee under the policy lodged the death claim before the insurer at Rairangpur Branch and submitted relevant documents. But the Divisional Office, Cuttack of LIC repudiated the claim on the grounds of suppression of material facts.

Complained that her late husband had not suppressed any facts about his health. In fact, her husband had no illness or suffering at the time of submitting the proposal, and LIC accepted the proposal after medically examining him by their panel doctor. However, her husband had availed sick leave for going home as no other leave was due to him.

Countered by LIC that the late insured was suffering from enteric fever and hypertension at the time of submitting the proposal. The leave application of the life assured proved that he had taken sick leave from 01.05.01 to 31.05.01 on the said grounds. Since this fact was not disclosed in the proposal form, the claim was repudiated as per terms and conditions of the policy.

Observed that the life assured late A. C. Singh was medically examined by their panel doctor before acceptance of the proposal. Nothing adverse was discovered then. The proof submitted by LIC in support of illness of the insured is inadequate. Mere availing of sick leave can not be considered as indisputable proof. The life assured died of pneumonia which has nothing to do with enteric fever which is very common. LIC has not procured and produced any treatment reports or prescriptions of a doctor.

Held that the repudiation action of LIC was unfair and recommended to LIC to settle the claim for full assured with accrued benefits.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.02.210.2002-03
Smt. P. Baby Ammal
Vs.

Life Insurance Corporation of India

Award Dated 27.10.2003

Shri K.Penchiliah (Late), a sanitary worker employed with Southern Railways insured his life under 7 policies No.715995898, 716083054, 716266585, 712691904, 716269094, 712966366 & 715945919 during the period June 1999 to May 2000 with different LIC Branch Offices situated in Chennai. He died on 7.5.2001 of Pulmonary Tuberculosis. Smt.Deviammal

@ Babyammal, wife of the deceased and the nominee under the policies claimed the policy monies. LIC DO-II Chennai repudiated the claim under all the 7 policies on grounds of suppression of material information relating to his health, leave details and previous insurance, in his proposals for insurance. On appeal, Zonal Office of LIC also confirmed repudiation. Hence the present complaint before this Forum.

A personal hearing was held. The complainant deposed that her husband was suffering from Asthma only and not T.B. The insurer deposed that the assured took 7 policies in a span of less than a year with different Branches of LIC without disclosing the previous policies. In fact LIC came to know of the existence of so many policies on the life of the assured only after claim was preferred on his death. Had the previous policies particulars been disclosed, LIC would have called for special reports like ECG, etc.

The records of the case as furnished by the Insurer were perused. As per the Southern Railway Hospital Headquarters Hospital, Chennai, the life assured had taken treatment on and off for Pulmonary Tuberculosis from January 2001. The leave record produced by the employer revealed that the assured availed leave from 29.1.1996 to 17.3.1996 on sick grounds.

The contention of the insurer viz. possibility of calling for special reports due to previous policy details does not hold good in respect of all the 7 policies taken by the life assured, inasmuch as calling for special reports depends upon certain other conditions viz. the sum assured, the age of the life assured, etc.

As the repudiation action was taken by the insurer after 2 to 3 years duration of all these policies, the provisions of Section 45 of Insurance Act 1938 are attracted and there lies the obligation on the part of the insurer to prove the materiality of the facts not disclosed by the life assured with a motive to get pecuniary benefit.

To a specific question whether special reports like ECG, Tele, BST would be called for all the policies viz. from the 1st policy to the 7th policy, in the chronological order of taking the policies, the insurer had clarified that the necessity for calling for Special Reports would arise only from the 4th policy onwards. In other words, the issue was not relevant to the first policy in any case and the decision of the insurer to undertake the risk under subsequent two policies would not get altered irrespective of whether or not the previous policies were disclosed in the concerned proposal forms. Further while furnishing the leave particulars, the employer did not give any other details like the reason for the leave, the ailment, if any, suffered by the deceased life assured, etc. In the absence of these details it cannot be said that the insurer had proved beyond reasonable doubt that the assured suffered from any definite ailment material for underwriting the risk during the pre-proposal period and the malafide intentions of the assured in not disclosing the previous policies and the leave particulars.

In the facts and circumstances of the case the decision of the insurer to repudiate the claims under the first three policies is set aside and the insurer is directed to pay the admissible claim amount under these policies in terms of the policy conditions. The decision of the insurer to repudiate the claim under the subsequent four policies was upheld.

Thus, the complaint is partially allowed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21/02/02/2003-04
Smt. A. Rani
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2003

Shri G.Arumugam took a policy of insurance (716147617) on his life with LIC for a sum assured of Rs.52,000/-. The proposal was dated 24.3.1999 and the policy was dated back to commence from 28.2.1999 at his request. He nominated his wife Smt.A.Rani to receive policy monies. He died on 9.7.2000 of Myocardial Infarction. LIC repudiated the claim on 30.3.2002 on ground of suppression of material information that the assured was suffering from Carcinoma Penis, that he consulted a medical man, that he was operated for the same and that he availed leave on medical grounds from 25.5.98 to 30.6.98, before proposing for insurance, but did not disclose the same in his proposal.

A personal hearing was held. The complainant represented that her husband had only tumour and the same was diagnosed as Cancer only during terminal stage of illness.

The records of the case have been perused. The medical certificates submitted by the assured to his employer revealed that the life assured underwent operation and treatment for Phimosis and Carcinoma Penis in the year 1996. The medical records also revealed that the assured received radiotherapy also during 1999. These material facts were not disclosed by the assured, but instead gave false answers to the relevant questions in his proposal form for insurance. With irrefutable evidence the insurer proved that the information suppressed was material and the assured suppressed the same with ulterior motive.

The complaint is dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.04.2059/2003-04
Kum. Nijam Devi
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2003

Smt.P.Mariammal (Late), a housewife took an insurance policy (742826926) on her life for a sum assured of Rs.1 lakh with LIC Sivakasi Branch under Madurai Division. The proposal was dated 30.3.2001 and the policy was issued with date of commencement 28.3.2001. She nominated her minor daughter Kum.Nijam Devi to receive the policy monies. She died on 4.8.2001 of Ischaemic Heart Disease. The death claim was repudiated by LIC DO Madurai on the ground that the assured had given false answer to question no. 13 regarding her husband's insurance with fraudulent intention to obtain a policy of insurance, as otherwise, she as a housewife, was not eligible for an insurance policy without husband's insurance. Zonal Claims Review Committee also turned down the appeal upholding the repudiation decision taken by their Divisional Office. Hence the present complaint to this Forum.

The parties were called for a hearing. The complainant did not attend the hearing. The representative of the insurer deposed that as per underwriting rules of LIC, persons with no independent income shall not be given insurance. But in case of a married woman, insurance is given even if she does not have an independent income provided her husband the main prop of the family had adequate insurance on his life and the same is restricted to a sum not more than her husband's insurance.

All the records of the case have been perused. The insurer was made to believe by misrepresentation, as answer to question number 13(c) of proposal that the assured's husband had insurance cover on his life to the extent of an equal amount as was being proposed on the life of the assured through her proposal dated 31.3.2001, including mentioning of false policy number. The insurer acted in good faith believing the information given in the proposal to be true. The insurer submitted a computer record in support of his contention that the policy number mentioned in question no. 13(c) of the proposal form dated 31.3.2001 belonged to one Dr.P.V.Jayaraman and not to the husband of the assured. Further, nowhere in the complaint did the complainant mention that the husband of the assured had insurance on his life and if so his correct policy number.

Thus it is clearly established by LIC that the assured with an ulterior motive to get pecuniary benefit gave false information with regard to her husband's insurance and induced the insurer into granting insurance to her. The complainant's contention that the Agent only had filled in the proposal was repelled citing the decision of the National Commission in the case of LIC of India vs Gowri & Others F.A.No.163 of 1993 holding that the Agent acts as the Agent of the proposal and not of the insurer at the time of filling up of the proposal form.

In the light of the above, the complaint is dismissed.

Chennai Ombudsman Centre

Case No. IO (CHN)/21.0/2080/2003-04
Smt. Vanaja Kesavan
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2003

Smt.G.Durgalakshmi, a housewife, insured her life with L.I.C. under policy no. 712239047 for Rs.30,000/- on 31.1.1996. She nominated her husband Shri A.Gunasekharan under the policy. She died on 17.2.1997 in a fire accident at her house. Her husband, the claimant, also died even before consideration of the claim. The assured's parents, who were appointed by the Court as guardians for the assured's minor daughter, claimed policy monies on her behalf but the claim for the full policy sum was repudiated by LIC giving rise to a complaint before this Forum.

LIC contended that the policy was issued with a restrictive clause, which restricts their liability to refund of premiums only in case the assured dies due to unnatural causes other than in a public place within 3 years of the issue of the policy. Since in this case death occurred due to a fire accident at the residence of the assured within the limitation period, they admitted the claim only to the extent of the refund of premiums, they averred. The evidence produced clearly indicated that a restrictive clause (Clause 4B) was imposed on the policy with due consent from the assured and the said clause stipulated that the insurer was liable only to the extent of refund of premiums paid excluding extra premiums, if any, if death occurred within private premises within 3 years of the policy due to unnatural causes. In this case, death occurred in the house of the assured and she died of burn injuries and that too within a year and a month. As such the restrictive clause, as per policy conditions, was operative.

Hence the insurer's decision to refund premiums received by them excluding extra premium for Accident Benefit, was found to be in order and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.02.2056/2003-04
Smt. Thirupurasundari
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2003

Shri R.Parthiban (Late) insured his life, under policy no. 715905844 for a sum of Rs.50,000/- with LIC from 28.12.1998. He nominated his wife Smt.Thirupurasundari. He died on 18.10.2000 of Chest pain. LIC repudiated the claim for policy monies on the ground that the assured met with an accident involving Spinal cord injury in December 1997, that he also availed Sick Leave for treatment thereof but did not disclose that material fact at the time of proposing for insurance. The claimant's appeal to Zonal Claims Review Committee was also rejected and hence the complaint before this Forum.

A personal hearing was held. The complainant contended that the assured had a minor fall only, that he was attending duties after that fall, that leave was taken for attending to personal jobs only and that Agent only had filled in the proposal form.

The records of the case were perused. The contentions of the complainant that the fall was minor and that leave was taken for other reasons was not acceptable in the light of incontrovertible proof produced by LIC in the form of employer's certificate and medical certificates for leave in December 1997 and February 1998 issued by a Govt. Doctor, a Neuro Surgeon. That the Agent only had filled up the proposal form did not absolve the life assured of the responsibility to disclose material information in the light of the decision by National Commission (in the case of LIC of India vs Gowri & Others) that the Agent while filling up the proposal form acts as the Agent of the proposer only and not of the insurer.

Held proved that the assured failed to disclose material information with motive to make pecuniary gain in his proposal for insurance due to which the insurer could not assess the risk properly.

The complaint is dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2093/2003-04
Shri Melkias

Vs.

Life Insurance Corporation of India

Award Dated 27.10.2003

Smt.D.Corthily (Late) insured her life with LIC under pol. no. 320995035 for a sum assured of Rs.50,000/- on 26.2.2001. She nominated her husband Shri Melkias as nominee. She died on 28.7.2001. The cause of death was stated to be hypertension and stroke. The complainant's claim for policy monies was repudiated by LIC on 30.3.2002 on the ground of non-disclosure of material fact relating to health and giving false answers to the relevant questions in the proposal form. LIC also stated that the assured suffered from Carcinoma (L) Breast two years prior to proposing and had taken treatment therefor. The repudiation decision was also upheld by LIC Zonal Claims Review Committee. Hence the present complaint to this Forum.

The records submitted by the insurer were perused. The Investigating Officer of LIC had mentioned that the life assured had suffered from Cancer and had taken treatment from Trivandrum Medical College Hospital, though the final cause of death was reported to be paralytic stroke. The insurer had produced evidence by means of certificates dated 9.2.1999 and 4.2.2002 from the Doctors as per which the life assured was suffering from Carcinoma (L) Breast right from 1998, and was operated upon for the same in January 1999 and the treatment had continued even upto June 2001. However, these details have not been mentioned in the proposal form, instead false answers were given by the life assured to the relevant questions in the proposal form. Thus the insurer had conclusively established that the life assured was ailing even before signing the proposal and the same was suppressed.

It was well observed by Hon'ble High Court of Karnataka in the case of LIC of India vs Smt.B.Kusuma T.Rai (Ref. F.A. No. 1977) that there need not be nexus between the cause of death and the pre-proposal ailment and that any fact which tends to suggest that the life assured is likely to fall short of the average duration would be a material fact.

In the light of the above, the complaint is dismissed.

Chennai Ombudsman Centre

Case No. IO (CHN)/21.08.2113/2003-04
Shri M. Vilvanathan
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2003

Smt.V.Santhakumari (Late), a teacher, proposed for insurance for Rs.50,000/- with LIC Ranipet Branch under Vellore Division and nominated her husband Shri M.Vilvanathan. The proposal dated 10.10.2000 was received by LIC on 3.11.2000 and was accepted under policy No.731492740 with date of commencement 28.10.2000. Before its acceptance, she died on 30.10.2000 of Carcinoma (R) Breast. LIC repudiated the claim on ground of receipt of proposal after death and suppression of material information that she suffered from Cancer and giving false answers to the questions in the proposal form at the time of proposing. Zonal Claims Review Committee also on appeal upheld the decision of their Divisional Office.

A personal hearing was held. The complainant deposed that his wife died of sudden heart attack only and that she did not suffer from any disease or took treatment in any hospital. The representative of LIC deposed that since it was an unconcluded contract on the death of the assured, they decided to consider claim under relaxed standards. But the subsequent investigations revealed that the assured had taken treatment from Cancer Hospital, Chennai before proposing for insurance and hence the claim was repudiated.

Revealed that the assured had taken treatment from Cancer Hospital Chennai before proposing for insurance and hence the claim was repudiated.

The records of the case were perused. The Certificates issued by the Doctors of Cancer Institute Chennai evidenced that the assured had been under treatment in their hospital for Carcinoma (R) Breast from 11.11.1999 to 16.10.2000 and that she was hospitalized twice once on 23.11.1999 and next on 7.3.2000, well before she proposed for insurance in October 2000. This material information was willfully suppressed in her proposal for insurance thus negating the very principle of utmost good faith. Moreover, the contract also remained unconcluded on the date of death. Hence the decision of LIC to repudiate the claim is upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2143/2003-04
Shri M. Sivaraj Kumar
Vs.
Life Insurance Corporation of India

Award Dated 5.1.2004

Smt. I. Thilagavathy (Late) took an insurance policy on her life for Rs.3,00,000/- with LIC, the risk to commence thereon from 28.1.2002, though the proposal for the same was dated 28.3.2002. The assured nominated her husband Shri M.Sivaraj Kumar under the policy 321112821. She died on 16.7.2002 due to Cerebral Haemorrhage and Stage IV Lung Cancer. The claim on the policy was repudiated by LIC alleging suppression of material information in the proposal. The complainant contended that his wife never suffered from any ailment prior to proposing and prayed that the claim be settled.

A joint hearing of both the parties was arranged on 12.12.2003. Both the parties reiterated what was already mentioned in their written submissions. The insurer submitted documentary evidence in the form of Medical Certificates from two different Doctors for treatment received by the assured in November 2001 and February 2002. They also submitted a lab report for the blood test done on 14.2.2002, which showed positive for the Mantoux Test. The CM Hospital, Vellore report clearly mentioned that the assured suffered from dry cough, breathlessness, left-sided chest pain for 6 months and that she was on ATT (Anti-Tubercular Treatment) for about 1 year. All these illnesses and consequent treatments were well before the date of proposal but did not find a mention in the proposal amounting to suppression of material information adversely affecting the insurer's assessment of risk. The cause of death was Cerebral Haemorrhage coupled with Stage IV Lung Cancer.

In this case, Section 45 of the Insurance Act 1938 was not applicable.

The insurer's decision to repudiate the claim was upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2118/2003-04
Shri T. Navaneetha Krishnan
Vs.
Life Insurance Corporation of India

Award Dated 19.1.2004

Smt.R.S.Subbulakshmi (deceased) insured herself with LIC under policy no. 321174273 for Rs.50,000/- on 28.12.2001 and named her husband Shri T.Navaneetha Krishnan as nominee. She died on 21.10.2002 due to Pneumonia and Septicaemia coupled with Gullian-Barre Syndrome. The insurer repudiated the claim alleging suppression of material information in the proposal. The complainant contested this decision and hence the present complaint.

A joint hearing of both the parties was conducted on 12.12.2003. The insurer contended that they had gathered from their investigating official that the assured had availed medical leave for 10 days from 21.7.1998 stating that he had been suffering from "Arthritis". This information was not disclosed in the proposal amounting to suppression of material information, they alleged. The complainant contended that the assured had availed the cited medical leave only for purposes of attending to some personal work and not due to illness and further argued that even if she had really suffered from Arthritis, it would not have cast any deleterious mark on her health. He also alluded to the common practice amongst Government servants to apply for medical leave for attending to personal work.

A perusal of the entire case sheets revealed that it was only a solitary incident of Arthritis and even according to LIC underwriting rules, solitary attack of Arthritis does not warrant any alteration in underwriting decision and is not recognized as material. Further, apart from the medical certificate given with leave application, there was no independent evidence of any treatment for Arthritis or for any other ailment during pre- proposal period taken by the life assured.

The insurer's contention that there was suppression of material information by the assured could not be sustained on facts and hence repudiation set aside and complaint allowed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.02.2103/2003-04
Smt. P. Devaki
Vs.

Life Insurance Corporation of India

Award Dated 19.1.2004

Shri P.Sureshkanna (Late) took a policy of insurance on his life from LIC on 5.12.1999 and nominated his mother Smt.P.Devaki under the policy no. 716377480. The policy lapsed due to non-payment of premiums and was revived on 12.10.2001 on the basis of a Personal Statement of Health dated 11.10.2001. The assured died on 13.10.2001 due to Acute Respiratory Distress Syndrome and Myocarditis Pneumonia. The claim was repudiated by LIC alleging suppression of material information in the Personal Statement. Personal hearing of both the parties was held on 12.12.2003.

The insurer put forth that the assured had got admitted in Sri Ramachandra Medical College & Research Centre Hospital, Chennai on 9.10.2001 for treatment for Acute Respiratory Distress Syndrome and died in the hospital on 13.10.2001. During this period, he had submitted a Personal Statement of Health for revival of his lapsed policy without mentioning the fact of his serious ailment and hospitalization, thus fraudulently inducing the insurer to revive his policy. The arrears of premium with interest was paid on 12.10.2001, while the Personal Statement affirming his good health was dated 11.10.2001. It could be established

by the insurer with documentary evidence that the assured was seriously ill and was in a hospital undergoing treatment during revival of the policy but misrepresented to the insurer that he was in good health. The complainant contended that the Agent might have filled up the Personal Statement falsely. But it was held by the National Commission in the case -LIC of India vs Gowri & Others (FA No.163 of 1993 N.C) that while filling up the proposal form, the Agent acted as the Agent of the insured and not of the insurer.

As such, the revival was held to be void and repudiation upheld. The complaint stood dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2133/2003-04
Smt. M. Pappa
Vs.

Life Insurance Corporation of India

Award Dated 19.1.2004

Shri M.Mahalingam (deceased) took a New Janaraksha Policy from LIC of India on his life under policy no. 320894662 for Rs.25,000/- on 28.11.2000. This is a special plan, which covers temporary insurance even when the policy is in a lapsed condition and the maximum age at entry under this plan is 40 years. The assured took this policy declaring his age as 40 years. He nominated Smt.Pappa, his wife, under the policy. He died of Congestive Cardiac Failure and Chronic Obstructive Pulmonary Disease on 21.12.2001. The claim was repudiated by LIC on the plea that material information was withheld from them in the proposal. A joint hearing of both the parties was also arranged on 12.12.2003.

The insurer, in support of his contention, produced medical certificates from Dr.A.Subash Chandran of Mylady Hospital reporting that the assured had been under his treatment continuously from 1997-2001 for various ailments such as fever, diarrhoea, dysentery, knee and joint pains, Jaundice, breathlessness, Edema, etc. The insurer also produced evidence to show that at the time of proposal the assured was aged 45 years, an uninsurable age under New Janaraksha Plan, under which the policy in question was given. Thus it was proved with documentary evidence that the assured willfully misrepresented his correct age and health condition, which prompted the insurer to cover risk on his life under this special plan.

Hence it was decided that the repudiation action of the insurer was not to be interfered with and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2150/2003-04
Smt. D. Aruna
Vs.
Life Insurance Corporation of India

Award Dated 19.1.2004

Shri D.Devaraj (deceased) insured his life with LIC of India for a sum of Rs.50,000/-, the risk under the policy no. 321004270 having commenced from 28.11.2001. He nominated his wife Smt.D.Aruna under the policy. The policy was under Jeevan Mitra, a Double cover Endowment Plan. He died on 25.2.2002 due to Cardio Pulmonary Arrest arising out of Acute Myocardial Infarction. The complainant's claim for policy monies was repudiated by LIC alleging suppression of material information relating to pre-proposal illness of the assured. The complainant prays that this decision of the insurer be set aside and claim settled in her favour. The insurer and the complainant were called for a personal hearing on 12.12.2003.

The insurer produced medical leave particulars of the assured, the case history and medical attendant's certificate from Tuticorin Port Trust Hospital. From the above records it emerged that the assured was on medical leave on many spells and he was treated, apart from fever, for Myalgia, for Perianal Haematoma and for Perianal Abscess on various occasions in the pre-proposal period, which information was suppressed in the proposal. The complainant during personal hearing also agreed that her husband had suffered from tumour in anal region and was operated upon for the same. The disclosure of this vital information would have materially altered the decision of the insurer to cover risk. Section 45 of the Insurance Act 1938 was not operative in this case. Since suppression of material information was conclusively proved by the insurer, the repudiation was upheld and complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2069/2003-04
Shri Y. Nallathambi
Vs.
Life Insurance Corporation of India

Award Dated 19.1.2004

Smt.N.Ponrani (Late) took a policy of insurance no. 321043842 on her life from LIC for a sum of Rs.40,000/- and nominated her minor son Master Amalraj with her father Shri Y.Nallathambi as appointee. The policy commenced on 28.3.2001. She died on 17.2.2002 due to Diarrhoea and Jaundice. The complainant's claim for policy monies was repudiated by LIC giving rise to this complaint.

The insurer contended that the assured suppressed material information relating to her pre-proposal illness in the proposal dated 31.3.2001 which vitiated the principle of utmost good faith, resulting in their decision to repudiate. The complainant contested the decision of the insurer and prayed for settlement of claim. A personal hearing of both the parties was held on 12.12.2003.

The insurer submitted hospital records from Dohnavur Fellowship Hospital, where the assured was treated for well over .4 years, including for a long-spell during pre-proposal period. She was continuously treated for Sepsis, Dermatitis, Diarrhoea, Loss of Appetite, Chest pain, Scabies, Weakness in limbs, etc. Two months prior to death, she had Chronic Diarrhoea from which she did not recover fully and died of diarrhoea and Jaundice. In the hospital records there was even a mention that she was HIV +ve and all the above ailments were prognostic of HIV +ve. Thus, it could be observed that she was in a poor health continuously and no information regarding any of the above ailments was given in the proposal. It was a clear case of suppression of material information.

In this case Section 45 of the Insurance Act was also not operative. Hence repudiation upheld and complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.01.2163/2003-04
Smt. R. Sasikala Devi
Vs.
Life Insurance Corporation of India

Award Dated 5.2.2004

Shri P.Ravichandran, a Government servant, took an Endowment policy no. 712974787 on his life on 5.3.2000 with LIC Branch Office Madurantakam for a sum of Rs.2 lakhs for a term of 15 years. He nominated his minor daughter and appointed his wife Smt.R. Sasikala Devi to receive policy monies. He died on 5.1.2002 of Acute Necrotising Pancreatitis with Ileal perforation and Septicaemia/Myocardial Infarction. LIC repudiated the claim made by the appointee to the minor nominee on the ground of suppression of material information pertaining to the health of the life assured at the time of proposing for insurance. The representation to Zonal Claims Review Committee was also turned down upholding the decision of repudiation taken by the Divisional Office of the insurer.

The complainant contested the decision of repudiation stating that her husband was healthy, that he did not avail any medical leave and that deterioration in health was much later to proposing for insurance owing to job related stress. She admitted during the personal hearing that though her husband was a Diabetic, the same was well under control and he used to consume alcohol occasionally. The insurer's representative stated that as per hospital records, the life assured was a diabetic for the past 8 years and the cause of death had close nexus with Diabetes. Had that ailment been disclosed LIC would have called for special questionnaire before deciding to grant or not to grant insurance, which opportunity was denied and hence the decision to repudiate.

The records of the case were perused. The Certificate of Hospital Treatment issued by the hospital which treated the life assured during his terminal illness recorded that he was suffering from Diabetes for the past 8 years and the same is corroborated by the medical records of the hospitals where the life assured underwent treatment earlier. Thus the ailment Diabetes stretched back to pre-proposal period. The Medical Referee of the insurer opined that Diabetes had precipitated Pancreatitis -

the cause of death. It was medical knowledge that Diabetes caused Cardio Vascular diseases. Held that though other ailments preceding the cause of death could have developed after proposing for insurance since the leave records pertaining to pre-proposal period did not reveal any illness, the underlying cause viz. Diabetes existed much before proposing for insurance on the basis of irrefutable medical evidence produced by the insurer. The insurer had proved that the insured deliberately and wilfully gave wrong information to the various questions pertaining to his health in his proposal for insurance thus misleading the insurer into granting insurance.

The complaint failed and dismissed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.02.2147/2003-04
Smt. G. Kalavathi
Vs.
Life Insurance Corporation of India

Award Dated 5.2.2004

Shri P. Govindarajan, an Engineer in Railways took an Endowment policy no. 712810997 on his life with LIC for a sum of Rs.1 lakh for a period of 23 years from 28.3.1998. He nominated his wife Smt. G. Kalavathi to receive policy monies. The policy lapsed due to discontinuance of premiums and was revived on 10.3.2001 on the strength of Personal Statement regarding Health and declaration dated 6.3.2001 of the life assured. He died on 28.5.2002 of Cardio-Pulmonary arrest and Glioma. LIC repudiated the claim for policy monies declaring the revival null and void and forfeiting the monies paid at the time of revival on the ground of suppression of material information relating to the health of the assured at the time of reviving the lapsed policy. The representation to the Zonal Office of the insurer was also turned down and hence the complaint before this Forum.

A personal hearing of the parties to the dispute was held. The complainant contested that the decision to repudiate was not based on facts. The insurer's representative stated that the records of the Neuro speciality hospital to whom the assured was referred for further treatment revealed that the assured underwent CT scan on 6.3.2001 itself at the Railway Hospital who also diagnosed the disease as Glioblastoma Multiforma, which was the cause of death. He also argued that the assured was well-educated and the suppression of ill-health at the time of revival was wilful and with full knowledge.

The records of the case produced by the insurer were perused. The Medical Attendant who was the deceased's usual medical attendant for the last 5 years certified the cause of death as Cardio Pulmonary arrest with Glioma as co-existing ailment. The referral letter dated 9.3.2001 of the Railway Hospital to the speciality hospital while diagnosing the disease as Glioblastoma Multiforma recommended immediate admission and further treatment of the assured. The medical certificate submitted to the employer recommended for leave for the same for 14 days from 9.3.2001. The speciality hospital's medical records produced by the insurer also referred to the CT scan of brain done on 6.3.2001 and the findings of the Railway Hospital classifying the ailment, clearly pointing to the brain tumour. The medical records also revealed that the assured was admitted in that hospital on 9.3.2001 with history of progressively increasing weakness in limb, difficulty in walking, wearing slippers and difficulty in getting up from squatting position and complaint of imbalance with tendency to hit objects without knowledge for the past one week and the ailment was diagnosed as Astrocytoma Grade IV, a malignant brain tumour.

Held proved that the assured did not disclose the test and evaluation done at the Railway Hospital on 6.3.2001 when he proposed for revival on 6.3.2001. It was also held that the assured failed in his duty to disclose the hospitalisation and treatment for brain tumour from 9.3.2001 before revival of the lapsed policy by the insurer on 10.3.2001, as the duty to disclose continued till date of acceptance of proposal for revival in terms of the terms of revival. The point of the complainant that gall bladder disturbance was diagnosed only after revival of the policy was beside the point since the main ailment brain tumour was diagnosed before revival of the lapsed policy.

In view of the irrefutable medical evidence, it emerged that the suppression of material information while answering the various questions in the Personal Statement regarding Health submitted for revival was wilful and fraudulent. The failure to communicate to the insurer of any change in health condition before the actual date of revival was also held proved.

The decision of insurer to declare the revival null and void upheld. The complaint is dismissed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.03.2190/2003-04
Smt. T. Muthulakshmi
Vs.
Life Insurance Corporation of India

Award Dated 6.2.2004

Shri M.A.Damodharan took a policy no. 762997947 of insurance on his life with LIC for a sum of Rs.5 lakhs which commenced on 13.7.2001. He nominated his wife Smt.T.Muthulakshmi to receive monies. He died on 6.1.2002 due to cardiac arrest and coronary artery disease with rheumatoid fibrotic lung disease. The claim for policy monies was repudiated by LIC since the life assured gave incorrect answers to the questions relating to health in his proposal for insurance and there was suppression of material information. On appeal, the decision of the Divisional Office of the insurer to repudiate was also upheld by their Zonal Claims Review Committee.

A hearing of the parties to the dispute was held. The complainant contended that the policy was issued only after medical examination by LIC. Her husband was in business and was maintaining good health. LIC's representative stated that as per the medical evidence gathered the assured had taken treatment in a hospital from 4.5.2001 to 10.5.2001 for Coronary Artery Disease, Unstable Angina, Chronic Obstructive Pulmonary Disease, Diabetes Mellitus, etc. before proposing for insurance but did not disclose the same in his proposal and hence the decision to repudiate the claim.

The records of the case were perused. The medical certificates issued by the hospital where the life assured underwent treatment during his terminal illness revealed that the cause of death were cardiac arrest and coronary artery disease with rheumatoid fibrotic lung disease. The assured was stated to be under their treatment from 4.5.2001 to 10.5.2001 as could be seen from the discharge summary produced by the insurer stating that the assured was a known case of Rheumatoid Arthritis, Diabetes Mellitus, effort angina and the ailments were diagnosed as coronary artery disease, Unstable Angina, Rheumatoid Arthritis,

Diabetes Mellitus, etc. Thus the insurer could establish with irrefutable medical evidence that the life assured underwent hospitalisation and treatment for the same diseases which caused his death, before proposing for insurance but did not divulge that information in his proposal. The complainant's contention that the assured had been to the hospital only for check up was repelled since the hospital records detailed the treatment underwent by the assured before proposing for insurance. That policy was taken only after medical examination did not absolve the assured of his primary responsibility to disclose all material information in his proposal. Reliance was placed upon the decision of National Consumer Disputes Redressal Commission in the case of Panni Devi vs LIC & Others and the decision of High Court of Kerala reported in 1985 KLT 865.

The complaint is dismissed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2170/2003-04
Smt. L. Padmavathy
Vs.
Life Insurance Corporation of India

Award Dated 7.2.2004

Shri R. Subbiah Pillai took a Jeevan Suraksha policy 320616833, on his life with LIC for a term of 5 years with effect from 22.2.2000. The pension policy in addition to granting risk cover promised a notional cash option at the end of 5 years. He nominated his wife Smt.L.Padmavathy thereunder. He died on 24.11.2001 of Diabetes Mellitus and Fibro- Calcified Pancreatic Disease. The claim for policy monies was repudiated by LIC on the ground that the assured suppressed material information relating to his health at the time of proposing for insurance. The claimant's representation to the Zonal Office was also turned down upholding the decision of the Divisional Office.

In her complaint to this Forum, the complainant contended that her husband was hale and hearty, that he did not take any leave on medical grounds and was regularly attending office and that the policy was taken only for tax relief. The complainant was not present for the personal hearing. The representative of the insurer stated that as per the medical certificates obtained by them the assured took treatment for Diabetes, Urethral Stricture, etc. from 21.8.1999 to 26.8.1999 but did not disclose the same in his proposal and hence the repudiation.

The records of the case were perused. The Certificate of hospital treatment revealed that the life assured died in their hospital and the treatment was for Diabetes, Fibro-Calcified Pancreatic Disease. It also revealed that the assured underwent treatment during an earlier period from 21.8.1999 to 26.8.1999 for the ailments Diabetes and Urethral Stricture and supra pubic cystotomy was done to cure urinary tract infection and the history of the ailments was recorded as 2 years, taking back the ailment even prior to 1999. The insurer could establish with irrefutable evidence that the assured had suffered from various ailments which had a close nexus with the cause of death before proposing for insurance but did not disclose the same in his proposal for insurance. The contentions of the complainant were not established.

The decision of the insurer to repudiate is upheld and the complaint dismissed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.02.2096/2003-04
Smt. Swarnalata Gajapathi
Vs.
Life Insurance Corporation of India

Award Dated 19.2.2004

Shri B.P.Gajapathi a resident of Chennai took a life insurance policy 570288514 for Rs.2 lakhs from LIC Orissa by submitting a proposal dated 30.8.1998. The risk thereunder commenced from 28.10.1998 and he nominated his mother Smt.Swarnalata Gajapathi. The policy was subsequently transferred to a Branch in Chennai. He died on 24.4.2001 while under treatment in a hospital and the cause of death was Diabetes Mellitus, Diabetic Neuropathy, Diabetic Gangrene (L) foot operated, Renal Failure and Ischaemic Heart Disease. The complainant's request for policy monies was turned down by LIC Chennai Division-II on the ground of suppression of the illness Diabetes suffered by him prior to proposing for insurance by furnishing false answers to the relevant questions in the proposal for securing insurance. The insurer also stated that the signatures in the medical reports differed from that on the proposal form leading to the situation of impersonation which was not acceptable to them. The complainant's appeal to the LIC Zonal Claims Review Committee and LIC Central Claims Review Committee for reconsideration were turned down upholding the decision of repudiation taken by LIC Chennai Division-II. Hence the present complaint to this Forum.

The complainant contested the repudiation stating that Diabetes was newly diagnosed, that her son died of aspiration and not due to Diabetes. During personal hearing the representative of the complainant stated that the assured did not have any health problem before proposing for insurance. He produced a copy of the Will left by the assured in favour of a person other than his mother in support of the insured's ignorance about his illness. The insurer's representative reiterated their stand to repudiate the claim on the basis of hospital records and the report of the Forensic experts.

A close scrutiny of the medical evidence established that the assured died of Diabetes Mellitus, Diabetic Neuropathy, Diabetic Gangrene, Acute Renal Failure and Ischaemic Heart Disease and the preceding and the co-existing ailment was Diabetes. As per the hospital records the assured was suffering from uncontrolled Diabetes for the past 10 years. That the Diabetes was deepseated and uncontrolled was evident from high level of blood sugar and Diabetic Gangrene necessitating amputation of leg. The hospital case sheets also recorded that the assured was a hypertensive also but not on any medication suggesting that the assured was not taking proper care of his health. The contention of the complainant that the assured died of aspiration was not taken cognizance of in view of the irrefutable medical evidence that the predominant cause of death was Diabetes. The evidence of the Forensic Science Department clearly proved that the signatures found in the medical reports and the addendum to proposal form differed from the signature contained in the proposal form leading to inference of impersonation. Though LIC should have exhibited reasonable care to check up the veracity of the reports received at the time of underwriting itself, the same fact did not minimize the gravity of the utter falsity committed by the assured leading to selection against the insurer.

The complaint was dismissed with direction to LIC to inform this Forum the action against the Agent and the Medical Examiner. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.03.2107/2003-04
Smt. R. Indirani
Vs.

Life Insurance Corporation of India

Award Dated 19.2.2004

Shri A.Ganesan, headmaster in a Govt. School took an insurance policy 762157740 with LIC for a sum of Rs.50,000/- by submitting a proposal dated 30.3.2001. The policy commenced from 28.3.2001. He nominated his wife Smt.R.Indirani. He died on 15.1.2002 within 10 months of taking the policy and the cause of death was Ischaemic Heart Disease with CCF (Crystal Induced Chemotactic Factor, Pulmonary Edema with Hypertension co-existing. LIC repudiated the claim stating that the assured took treatment in a hospital from 4.1.2000 to 13.1.2000 for Diabetes Mellitus with Deep Thrombosis but did not disclose the same in his proposal for insurance and instead furnished false answers to the questions thereunder and thus there was suppression of material information. On appeal, this decision of repudiation was also upheld by the LIC Zonal Claims Review Committee. Hence the complaint before this Forum.

The complainant contended that the death was sudden and the medical leave was availed only for celebrating their daughter's marriage. During personal hearing she stated also that Diabetes problem was known only after taking the policy and not before. The representative of LIC stated that the Doctor who gave the certificate for medical leave also gave details of treatment of the assured before proposing for insurance during the period from 4.1.2000 to 13.1.2000.

The records of the case were perused. The discharge card of the hospital revealed that the assured was admitted there on 4.1.2000 with complaints of swelling in the right leg and the ailment was diagnosed as Diabetes Mellitus with Deep Vein Thrombosis. Anticoagulant therapy and antidiabetic drugs were also given and the assured was discharged on 13.1.2000. The medical certificate for the period of leave from 4.1.2000 to 13.1.2000 stating the illness as Deep Vein Thrombosis was issued by the same Doctor who treated him in the hospital. The blood and Urine tests reports taken on 4.1.2000 amply established that the assured was ill before taking the policy. Hence the pre-existence of ailment Thrombosis and Diabetes was conclusive and the same had nexus with the cause of death Ischaemic Heart Disease. As per the leave records of the employer, the assured had also taken leave from 1.3.2000 to 16.3.2000 for treatment of Peptic Ulcer also. Therefore it was held that there was suppression of material information by furnishing false answers to the relevant questions in the proposal form vitiating the very principle of uberrima fides required of the assured while entering into the insurance contract. Reliance was placed upon medical knowledge contained in International Text Book of Diabetes Mellitus Volume-II published by John Willey & Sons, Chicester, Newyork and the book Current Concepts in Diabetes Mellitus by Hon.Lt.Col.Gurumukh that Diabetes had a nexus and highly deleterious effect on heart functioning.

The complaint was dismissed without costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.01.2154/2003-04
Smt. M. Sharmila
Vs.

Life Insurance Corporation of India

Award Dated 19.2.2004

Shri D.Mahaveerchand of Chennai, a businessman, took a policy, 713145050 of insurance on his life for a sum of Rs.50,000/- with LIC by submitting a proposal dated 22.2.2001. The policy was dated back to commence from 2.11.2000 as per his request. He nominated his wife Smt.M.Sharmila. He died on 29.9:2002 of Anaemia with CCF with renal shutdown. Smt. Sharmila's claim for policy monies was repudiated by LIC on the plea that the life assured suffered from severe anaemia and congenital atrial septal defect even before proposing for insurance but did not divulge that information in his proposal for insurance. Her appeal to the Zonal Claims Review Committee was also turned down and hence the complaint before this Forum.

She contended that her husband was hale and hearty, was active in business and passed away at a very young age after illness for a brief period. She had 2 girl children to take care of and hence pleaded for reconsideration. During personal hearing also she reiterated the same points. The insurer's representative stated that the hospital records evidenced that the assured suffered from Anaemia and also had Congenital Atrial Septal Defect. Their decision was supported by the opinion of their Medical Referee also and hence the decision to repudiate for suppression of material information relating to health.

All the evidences produced by the parties to the dispute were perused. The hospital records evidenced that the assured was suffering from Anaemia for a few days only before his death. The certificate obtained from the family Doctor stated that the assured was treated by him for common ailments such as cold, cough, fever only during the past 10 years. The death summary recorded the duration of illness like breathlessness, pedal edema, etc. as 3 days. Thus the hospital records did not refer to any past ailment stretching back to the pre-proposal period. The opinion of the insurer's Medical Referee that the assured suffered from Congenital Atrial Septal Defect could utmost be termed only as a possibility and not a certainty in the absence of any other evidence to support that the assured had knowledge of the same.

Since Section 45 of the Insurance Act was applicable as repudiation decision was taken 2 years after commencement, it was held that insurer had failed to prove that there was suppression of a material information with fraudulent intention and that the assured had knowledge of his ailment.

The complaint was allowed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.01.2174/2003-04
Smt. C. Chitra
Vs.
Life Insurance Corporation of India

Award Dated 19.2.2004

Shri S.Chandrasekharan (Late) of Chennai took 2 policies of insurance 713460889 & 713715822 on his life for Rs.50,000/- each on 28.4.2002 and 28.12.2002 respectively. He nominated his wife Smt.C.Chitra under the policies. He died on 19.1.2003 due to cardio-respiratory arrest followed by Cirrhosis of liver, Hepatic decompensation, Diabetes Mellitus and Hypertension. Smt. Chitra's claim was repudiated by LIC on the plea that deliberate misstatements were made in the proposal and also material information was withheld. The complainant's appeal to the Zonal Claims Review Committee of LIC was also turned down. She challenged the repudiation decision of the insurer and prayed for settlement of the claim.

All the documentary evidence were perused. Personal hearing of both the parties was conducted. It emerged therefrom that the assured had been treated in 2 different spells between 2.9.2002 and 8.9.2002 and again between 28.11.2002 and 7.12.2002 in a hospital in Chennai for Cirrhosis of liver with portal hypertension, Diabetes Mellitus and Hypertension. From the period during which the assured was treated, it could be observed that the argument that material information was suppressed held good only in the case of proposal for the later policy which commenced on 28.12.2002. There was no information in the records pointing to any pre-proposal illness and treatment in the case of the first policy which commenced on 28.4.2002. Hence the insurer's contention that there was material suppression in the case of first policy could not be sustained while the same was tenable in the case of the latter policy.

It was held that the claim on the first policy becomes payable while repudiation of the claim under the second policy is valid. Reference was made to the decision given by Orissa State Consumer's Disputes Redressal Commission, Cuttack in LIC of India vs Pratima Mansingh (2003 (4) CPJ 288 (O)).

The complaint was partly allowed. No costs

Chennai Ombudsman Centre
Case No. IO (CHN)/21.02.2151/2003-04
Smt. Mala Mathur
Vs.
Life Insurance Corporation of India

Award Dated 19.2.2004

Shri N.P.Mathur (Late) of Chennai took a policy of insurance on his life Policy No. 710999162 for a sum of Rs.2,00,000/- from LIC of India by submitting a proposal dated 3.11.1990. He nominated his wife Smt.Mala Mathur under the policy. He died on 29.5.1992 of Carcinoma Rectum and Obstructive Uropathy. Smt.Mala Mathur preferred a claim with LIC. Her claim was repudiated by LIC alleging suppression of material information in the proposal. The said repudiation decision was challenged by her before this Forum.

A joint hearing of both the parties was held. All the records were perused. Shri N.P.Mathur submitted a proposal dated 3.11.1990 and remitted the first premium deposit on 5.11.1990. His proposal was accepted by the Underwriting Section of LIC Zonal Office on 8.12.1990, with date of commencement of policy dated back to 5.10.1990 as per his request. He got admitted on 5.11.1990 in a hospital in Chennai where he underwent treatment and surgery for Polypoidal Lesion (removal of tumour) and the disease was diagnosed as Adenocarcinoma Duke's D. Even prior to this, he was treated by his family Doctor from 1.11.1990 itself. He was in hospital in Chennai from 5.11.1990 to 27.11.1990 and underwent abdominoperineal resection, colostomy and appendicetomy on 14.11.1990. Information relating to these ailments, treatment therefor and surgeries underwent were not given to the insurer. The complainant contended that the suppression of information did not arise as the treatment and surgeries were post-proposal, the proposal having been dated 3.11.1990. She also contended that necessary medical examinations were done at the time of proposal by LIC.

Held that the duty to disclose continued till the date on which acceptance was conveyed by the insurer and the fact that insured was medically examined by LIC did not absolve him of his primary responsibility to disclose. Judicial precedents referred to are Panni Devi vs LIC & Others as reported in 2003(3) CPJ 15 (NC), Sarojam vs LIC of India as reported in AIR 1986 Kerala 3201 and Asha Goel vs LIC of India as reported in 2001 (II) CPJ SCC 160.

The complaint was dismissed without costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.03.2031/2003-04
Smt. Saraswathi
Vs.

Life Insurance Corporation of India

Award Dated 25.2.2004

Shri V.N.Subramaniam (Late) insured himself with LIC Policy No. 761233903 for a sum of Rs.1,00,000/- on 27.2.1993 under policy no. 761233903 and nominated his wife Smt.Saraswathi thereunder. The policy lapsed due to non-payment of premiums due from November 1996 and was revived on 6.2.1999 on the strength of a personal statement regarding health. The assured died on 16.2.2001 due to cardio respiratory arrest and renal failure. The nominee's claim for policy monies was turned down by LIC, giving rise to the complaint.

All the documents produced have been perused and joint hearing of the parties was also arranged. The complainant contended that her husband did not suffer from any illness and that the medical records relied upon by LIC did not pertain to her husband. Insurance Ombudsman directed the insurer to go into this aspect again and come back, upon which the insured conducted reinvestigation and came out with the proof that the medical records produced by them pertained to the insured only. The hospital records submitted as evidence by LIC clearly evidenced that the assured was sick prior to revival and underwent various investigations at a Scan centre at Coimbatore prior to revival. The records further proved that the assured was on regular haemodialysis. It was clearly established by the insured with clinching documentary evidence that the assured had suffered from chronic renal problem prior to revival, had undergone regular haemodialysis and the cause of death had been renal failure. It was a clear case of suppression of material facts in the Personal Statement given for revival. Hence the repudiation was held to be valid and complaint dismissed. The complaint being a civil proceeding, it was held that proof beyond reasonable doubt was not required as pointed out in the case of M.Krishnan vs Vijay Singh & another by the Hon'ble Apex Court of India as reported in 2001 8 SCC 645. The other judicial pronouncements relied upon were Manni vs Paru of Hon'ble High Court of Kerala (AIR 1960 Kerala 195) and Ahmedunissa Begum vs LIC of the Hon'ble High Court of Andhra Pradesh.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2148/2003-04
Smt. Joyce
Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Shri A.Jeyapaul (Late) insured his life with LIC Policy No. 321006162 for a sum of Rs.50,000/- on 10.7.2002 and nominated his wife Smt.J.Joyce under the policy. He died of electric shock burns on 8.11.2002. Smt.Joyce preferred a claim with LIC, which was repudiated and the said decision was also confirmed by Zonal Claims Review Committee, LIC, giving rise to this complaint.

Entire case records were called for and personal hearing of the parties held. The complainant contended that her husband availed leave only for attending a marriage and his death was due to an accident only and not of any ailment. The insurer contended that the assured availed medical

leave for 12 days for treatment of Acute Bronchitis but had not disclosed the same in the proposal, which amounted to suppression of material information.

A perusal of the case records revealed that the assured died of electric shock burns - 80%, which fact was well corroborated by clinching documentary evidence. Except the solitary proof in the form of a medical certificate produced to the employer that he was treated for Acute Bronchitis during the period of leave, which the complainant contended was only for attending a marriage in the family, there, was nothing to suggest any ailment either pre-proposal or post- proposal. Since the cause of death was sheer accident and had nothing to do with health condition, the insurer's contention that health details were suppressed resulting in repudiation could not be sustained.

Hence repudiation set aside and complaint allowed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.07.2141/2003-04
Smt. M. Saroja
Vs.
Life Insurance Corporation of India

Award Dated 27.2.2004

Shri M.Ramesh (Late) insured his life with LtC,of India, Policy No. 321003612 for a sum of Rs.50,000/- as per his proposal dated 31.7.2001 and a policy was issued to him with risk commencing from 28.7.2001. He nominated his mother Smt.M.Saroja under the policy. The assured died on 4.10.2001 and the cause of death was reported to be chest pain. The complainant Smt.Saroja's claim was rejected by LIC on the plea that material information relating to health of the assured was suppressed in the proposal.The complainant challenged this decision before this forum.

The documentary evidence was received and perused. The parties to the dispute were called for a personal hearing. The insurer contended that the assured answered question nos. 11(a), (c), (d) & (i) of proposal falsely thereby suppressing information relating to his ailment Acid Peptic Disorder and leave availed for treatment thereof. The complainant's contentions were that the assured did not suppress any information deliberately, that he died of heart attack only and not of Acid Peptic Disorder, which was also cured as per the medical fitness certificate issued for rejoining duties after leave and that there was delay in sending repudiation letter by the insurer.

A careful perusal of facts concerning the case confirm that the assured suffered from Acid Peptic Disorder only 3 months prior to proposing, availed medical leave for treatment thereof for 30 days continuously, for which independent medical evidence was also adduced by the insurer and suppressed that information in the proposal. The fact that he suppressed the information about the ailment suffered from and treatment received only 3 months prior to proposal which was fresh in his memory at the time of proposing showed that it was a wilful suppression. Further Acid Peptic Disorder is not a passing or trivial ailment but one capable of casting a permanent mark on the health and its non-disclosure tantamounted to suppression of material information. Nexus need not always be established - it is enough if the non-disclosure is capable of having any definite bearing on the risk undertaken by the insurer for him to avoid the contract. In this case, Section 45 of the Insurance

Act is also not applicable. Hence repudiation upheld. The decisions relied upon in this case were - (i) SDM, LIC vs Smt.Gangama - National Consumer Disputes Redressal Commission, New Delhi reported in 2002(3) CPJ 56 (NC) and LIC of India vs Smt.Kusuma T.Rai (Ref. FA No.1977) of the Hon'ble High Court of Karnataka.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.08.2015/2003-04
Smt. K. Annamalai
Vs.
Life Insurance Corporation of India

Award Dated 23.3.2004

Srnt. A. Lakshmi @ Ammakannu insured her life for Rs.50,000 and nominated her husband Shri K.Annamalai. The proposal was dated 12.1.2000, the risk was accepted by LIC from 31.1.2000 and the Policy No. 731248461 was issued dated 15.2.2000. However the risk was backdated to commence from 28.12.1999 at the request of the assured. The assured died on 10.1.2001 by consuming poisonous seeds. LIC repudiated the claim that the assured died of Suicide within 1 year of the policy attracting exclusion under Suicide Clause, which was also upheld on appeal by the Zonal Claims Review Committee.

The complainant contended before this Forum that since death occurred on 10.1.2001 which was one year after date of commencements. viz. 28.12.1999, Suicide Clause was not attracted.

The policy conditions reveal that the suicide clause operated for one year from the date of policy. Since the date of policy was 15.2.2000, the clause remained operative upto 14.2.2001. Since death occurred on 10.1.2001, Suicide Clause was attracted. This is in consonance with the decision of the Apex Court of India in LIC of India vs Sri Dharam Vir Anand that the date of policy is to be interpreted to mean the date on which the policy was issued and not the date of commencement of risk. But LIC, taking cognizance that issue of policy might be delayed and undue hardship would be caused if a harsher interpretation of the date of issue of policy is taken, in practice, takes the operative date as the date from which the risk under the policy is accepted. Even according to this liberal interpretation by LIC, the risk was accepted on 31.1.2000 and suicide clause operated for 1 year upto 30.1.2001. Since death took place on 10.1.2001, it was held that the death took place during operation of Suicide Clause and as such the repudiation decision of the insurer upheld.

The complaint was dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.04.2149/2003-04
Smt. G. Chitra
Vs.
Life Insurance Corporation of India

Award Dated 23.3.2004

Shri V.Ganesan (Late) insured his life under Policy No. 742182845 for sum of Rs.3,00,000/- with LIC and nominated his wife Smt. Chitra thereunder. He died on 30.6.1998 of Malarial Encephalitis. The claim for policy monies was repudiated on the ground that it was an unconcluded contract and there was

concealment of material information and understatement of age. The decision of repudiation was also upheld on appeal by the Zonal Claims Review Committee and hence the present complaint.

The complainant contended that her husband suddenly died after a brief illness. A personal hearing of the parties to the dispute was also held. The records of the case reveal that proposal dated 14.5.1998 was received by LIC on 26.6.1998 and the same was registered by LIC on 30.6.1998. The decision to accept risk thereunder was taken on 3.7.1998. The risk under the policy was backdated to commence from 28.4.1998 at the request of the assured. The policy bond was dated 13.7.1998. In the meanwhile the assured died on 30.6.1998. It is well settled principle in law that contract of insurance does not come into vogue till the proposal is accepted by the insurer and the acceptance communicated to the other party as could be seen from the decision of the Apex Court of India in the case of LIC of India vs Raja Vasireddy Komalavalli & Other in Civil Appeal No. 2197 of 1970 and hence the decision of LIC to treat the policy as unconcluded contract upheld. However as for suppression of illness Malarial Encephalitis and the correct age of the assured, though the same are proved on the basis of documentary evidence, the same did not deserve any scrutiny since no concluded contract came into existence on the date of death of the assured. Since it was a case of unconcluded contract, the insurer was directed to refund the proposal deposit of Rs.12,024 held by him with interest at the rate of 10.5% per annum with effect from 1.12.1999, after allowing a month's time after submission of claim forms by the nominee for the insurer to decide the claim.

The complaint for the full sum assured was dismissed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.01.2212/2003-04
Smt. B. Devi
Vs.
Life Insurance Corporation of India

Award Dated 23.3.2004

Shri A.Baskar (Late) insured his life for a sum of Rs.25,000/- with LIC under policy no. 712585346 from 28.7.1997 and nominated his wife Smt.B.Devi to receive policy monies. The policy lapsed due to non-Payment of premia from April 1998 and was revived on 28.10.1999 on the strength of a Personal Statement regarding Health dated 27.1.1999 submitted by the assured. He died on 28.1.1999 of Liver failure. The claim for policy monies was repudiated on ground of suppression of material information at the time of revival and since the claim was time barred as it was preferred 3 years after the date of death of the assured. This decision of repudiation was also upheld on appeal by the Zonal Claims Review Committee and hence the present complaint.

A personal hearing of the parties to the dispute was held and the records of the case perused. The attending Doctor's Certificate revealed that the assured was suffering from Liver disease and was attended by him on and off, evidencing that the assured was suffering from ailment before revival and thus suppression of information at the time of revival was proved. Revival of a lapsed policy constituted a new contract or a "novatia". The revival was a privilege or concession granted to policyholder as laid down by the Hon'ble High Court of Andhra Pradesh in the decision reported in AIR 1981 AP 50 AT 54 in the case of Ahmedunniosa Begun vs LIC of India Hyderabad and also by the UP State Consumer Disputes Redressal Commission in the decision reported in 2004 (1) CPJ 7 (LIC of India & Oths vs Dev

Rajswami & another). As for the other ground of repudiation, it was seen that while death took place on 28.1.1999, the claim was preferred only on 3.5.2002, more than 3 years after the death took place. Since the Article 44(a) of The Limitation Act specified a time limit of 3 years from the date of death for preferring, a claim, the other ground of repudiation that the claim was time barred was also proved.

The complaint was dismissed. No costs.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.05.2216/2003-04
Smt. R. Krishnamala
Vs.
Life Insurance Corporation of India

Award Dated 30.3.2004

Smt.R. Krishnamala, the complainant, preferred a complaint with this Forum challenging the repudiation of claim by LIC on the policy on the life of her husband (Late) Shri A. Ravichandran. The policy bearing no.701333814 which commenced on 28.1.2002 resulted in a claim due to the death of the assured on 13.6.2002 of Prostate Cancer and Cardiorespiratory failure. LIC repudiated the claim alleging suppression of material information by the assured relating to his health.

LIC put forth that the assured had not divulged in the proposal that he had been a Diabetic. They further contended that the assured had not divulged information relating to his illnesses Dysuria, Haematuria and Prostate Cancer which developed subsequent to proposing for insurance but before acceptance of risk on 21.3.2002. The assured died of Prostate Cancer on 13.6.2002. The complainant contended that Prostate Cancer was finally diagnosed on 12.4.2002 only and as such there was no suppression of information. From the records made available, it became clear that the assured was a Chronic Diabetic and this, though not revealed in the proposal, came out in the special reports received by LIC and consequently LIC charged health extra for Diabetes. But after submission of the proposal, the assured underwent diagnostic tests and biopsy after having suffered from Haematuria and Dysuria. The diagnostic tests and biopsy made the Doctors conclude that there was a solid mass in Prostate possibly Cancer Prostate. There was uncontrolled Haematuria on two occasions and continuous hospitalization was also there. All these developments took place prior to acceptance of proposal, but were not intimated to the insurer.

Held that the duty to disclose material information continued upto the acceptance of the proposal by the insurer and the insured failed to discharge his obligation to disclose any adverse change in health as enjoined upon him by the declaration contained in the proposal form. Reliance was placed on the decision of Hon'ble Supreme Court of India in the case of Asha Goel vs LIC of India reported in 2001(2) Supreme Court Cases 160.

Hence repudiation upheld and the complaint dismissed.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.01.2208/2003-04
Smt. C. Savithri
Vs.
Life Insurance Corporation of India

Award Dated 31.3.2004

Late E.Chinraj insured his life with LIC of India for a sum of Rs.5,00,000/- under policy no. 712947923 on 1.1.2000 and nominated his wife Smt.C.Savithri under the policy. Shri Chinraj died on 30.4.2000 and his wife preferred a claim with LIC, which was repudiated, giving rise to this complaint.

The insurer repudiated the claim on the plea that the assured committed suicide within 1 year of the policy. The complainant challenged this decision of LIC and prayed for settlement of claim. LIC had the case investigated by their own official. They also availed of the services of a Private Investigating Agency. It came out from the investigations that the death of the assured was not natural. Circumstantial evidence strongly pointed to foul play as the part of close family members including wife. The assured, prior to proposing for this insurance for Rs.5,00,000/- had policy only to the tune of Rs.45,000/-. He also had an income of Rs.5,000/- per month, whereas his premium commitment was to the tune of Rs.26,727/- per annum. He was working as a Mason only. The complainant stated that the cause of death was heart attack and obtained certificates from a Doctor and two other people of their vilage. But all of them went back on their statements and informed that they were not aware of the actual cause of death. The time of death., which the complainant herself mentioned as 7.00 PM in the Claim Forms, stood corrected as 7.00 AM. The time of death in the Doctor's certificate also stood corrected as 7.00 AM. The certificate of cause of death was evidently tampered with to suggest that death was natural. The Certificate of Identity & Burial given by a resident of the same village mentioned the time of cremation as 8.30 PM. Thus the cremation seemed to have been arranged post- haste to hush up evidence and investigation by Police authorities to establish the cause of death. The private Investigator concluded that it was a death due to poisoning. Thus there was an element of moral hazard and a deliberate intent to defraud the insurer to get undue pecuniary gain from the policy. As such repudiation was upheld and complaint dismissed. Reference was made to the decision of National Consumer Disputes Redressal Commission in Bhai Bhagath Cotton Factory & Another vs National Insurance Co. Ltd. wherein it was held that investigation report of investigating agency could be relied upon (reported in 111(1998) CPJ 30. Reference was also made to the decision of Apex Court of India in M. Krishnan vs Vijay Singh & Another, reported in 2001(8) SCC 645 that Civil complaints could be decided on probabilities unlike in Criminal cases where absolute proof is required.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.08.2230/2003-04
Smt. Renuka
Vs.
Life Insurance Corporation of India

Award Dated 31.3.2004

Shri P. Hari (Late) insured his life with LIC under 2 policies no. 730053478, 731260469 for Rs.40,000/- and Rs.20,000/- each and nominated his wife Smt. Renuka thereunder. Both the policies lapsed due to non-payment of premium and were revived on the strength of Personal Statement regarding Heath and medical report on 10.5.2002. The assured died on 21.5.2002 due to Anaemia and Dehydration. The Claim was repudiated by LIC citing suppression of material information as reason therefor. This decision which was also upheld by LIC Zonal Claims Review Committee was challenged before this Forum.

The insurer's contention was that the assured suffered from severe dehydration and vomiting prior to revival of the policy, which fact was not divulged in the personal statement regarding health during revival, rendering the revival null and void and hence their decision to repudiate. The complainant stated that her husband had not been suffering from any illness at the time of revival and death due to diarrhoea was sudden. The records perused revealed that the assured suffered from an isolated spell of dehydration and vomiting 2 months prior to revival and there was nothing to show that this ailment persisted thereafter. The insurer's investigator mentioned in his report that the assured was attending to his driving duties till a day prior to death, that death was sudden and recommended settlement of claim. The assured, in all good faith, pledged his valuables for borrowing money to revive the policy and both the policies ran for 11 and 2 years respectively before lapsing. This isolated spell of illness, which was alleged to have been suppressed, was not considered material enough to drive the insurer to avoid the contract. The observations of the Hon'ble Supreme Court of India in LIC of India vs Bibi Padmavathi (1997) Comp LJ 292 that "When the revival form speaks of 'sickness, ailment or injury' these words must be interpreted to include only more serious disorders leaving a permanent mark upon the insured's health; passing ailments and disorders are not considered by the Court to be material to the risk" aptly apply in this case. Reliance was also placed on the pronouncements of Delhi State Consumer Disputes Redressal Commission in LIC of India vs Krishna Devi reported in III (2001) CPJ 194 and also of Gujarat State Consumer Disputes Redressal Commission, Ahmedabad in LIC vs Ahmedabad Jilla Grahak Suraksha Sangh & Anr where it was held that passing and trivial ailments are not to be considered material.

Hence the complaint allowed and repudiation set aside.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.08.2251/2003-04
Shri V. Ganesan
Vs.
Life Insurance Corporation of India

Award Dated 31.3.2004

Kum.G.Mangapuram a self employed woman insured her life with LIC, under policy no. 731579013 for a sum of Rs.40,000/- with effect from 28.9.2001 and nominated her father Shri Ganesan thereunder to receive policy monies. The assured died on 24.2.2002. LIC repudiated the claim alleging suicide within 1 year of policy. This decision was also upheld by the Zonal Claims Review Committee on appeal.

The complainant stated that her daughter died of chest pain only before she could be offered any medical help. LIC stated that as per their investigation the assured committed suicide due to love failure and in proof produced letters obtained from a person in a neighbouring village and the Agent who procured the policy. But a perusal of these letters reveal that these persons did not hail from the place of the assured and therefore their information that death was due to suicide could at best be a hearsay only. On the otherhand, the close neighbour of the assured who was present during the hearing stated that the death was due to heart failure. The Certificate of Identity & Cremation given by an independent person mentioned the cause of death as chest pain and affected urine flow. That cremation took place only in the evening while death took place on the morning did not suggest anything suspicious. It is for the insurers which claimed the death to be suicide to prove the same if they wanted to avoid the contract invoking suicide clause. Except letters from 2 persons based on hearsay, no other documentary evidence like medical certificate, police report, post-mortem certificate or letters from any elders from

that village or Village Administrative Officer was produced by the insurer evidencing suicide. Therefore it was held that the insurer failed to conclusively prove with substantial evidence that the death was due to suicide.

The insurer's decision to repudiate the claim on ground of suicide within 1 year was set aside and the complaint allowed for the full sum assured with attendant benefits under the policy.

Chennai Ombudsman Centre
Case No. IO (CHN)/21.08.2241/2003-04
Smt. S. Kalaiarasi
Vs.
Life Insurance Corporation of India

Award Dated 31.3.2004

Smt.R.Gowri a Government Servant took a policy no. 732154862 on his life with LIC for Rs.50,000/- from 20.3.2000 and nominated her daughter Smt. S.Kaiaiarasi. She died on 26.5.2002 due to heart attack. The claim for policy monies was repudiated alleging suppression of material information by furnishing false answers to the questions relating to health at the time of proposing for insurance. The repudiation decision was also upheld by the Zonal Claims Review Committee on appeal by the claimant.

The complainant contended that her mother availed medical leave for performing her marriage and that of a relative, that she was not really ill before proposing for issuance and that her death was due to sudden heart attack only. The documents perused reveal that LIC had relied upon the medical certificates produced by the assured to her employer for purposes of leave that the assured was not in good health. Two spells of leave were for treatment of Enteric Fever and Osteomyelitis. Of the same Enteric Fever was a passing ailment. The insurer also did not produce any independent medical evidence regarding the nature of treatment taken by the assured for alleged Osteomyelitis before or after proposing for insurance other than the medical certificates produced along with leave application. The cause of death was heart attack and did not bear any nexus with the ailments alleged to have been suffered. Judicial authorities could give weightage to local practices like the one on the part of Government Servants avail leave on medical grounds whether really sick or not as laid down by the Apex Court of India in AIR 1965 SC 1166 & 1669 (Shiv Nath vs Union of India). Since the policy had run for more than 2 years, Section 45 of the Insurance Act was attracted in the case and the insurer had failed to prove materiality, fraudulent intention and knowledge.

The repudiation decision was set aside and the complaint allowed. Reliance was placed on the decision of Hon'ble High Court of Patna in the case of Madho Singh vs State of Bihar reported in AIR 1978 Patna 172 to find out the probabilities of the case and mould relief.

Delhi Ombudsman Centre
Case No. LI/JP/982
Smt. Shyama Devi
Vs.
Life Insurance Corporation of India

Award Dated 21.11.2003

FACTS

The life assured had taken a policy (No. 193811267) for Rs.5 lakhs with effect from 28.12.2001. He died within 1 year and 2 months of the commencement of the policy. The death claim lodged by the complainant has been repudiated by LIC on the ground that at the time of taking the policy, the complainant had suppressed the material fact that he was suffering from piles.

The life assured (Shri Yagya Dutt Sharma) underwent an operation for piles in the Rajdhani Hospital, Jaipur on 12.02.2003. He did not recover consciousness after the operation. 'The doctors in the Rajdhani hospital were unable to cope with him. He was, therefore, shifted to the Santokhba Durlabji Memorial hospital the same day where he died the next day (13.02.2003) without regaining consciousness. Piles operation is not a major operation. On the contrary, it is a very minor operation. The death of the life assured could not have been due to piles. The complainant (who is the wife of the life assured) and the close relations of the life assured are of the view that the doctors who had attended on Shri Yagya Dutt Sharma in the Rajdhani hospital did not take proper care of the life assured after the operation. They just put him in the recovery room and went away to witness the cricket world cup match between India and Australia. This was the reason why there were post-operative complications which were not managed in time but grossly neglected. The complainant and her close relations have filed a FIR with the police and the matter is under police investigation. A Medical Board constituted by orders of the Medical Superintendent of SMS Hospital has considered the facts of this case. According to the Board, as per the records of the SDMH, the probable cause of death was "Post operative cardiac arrest leading to severe hypoxic ischaemic encephalopathy". However, the exact cause of hypoxia has not been ascertained because there was no post-mortem examination. The Hon'ble Insurance Ombudsman did not find any substance in the ground taken by LIC to repudiate the claim. Piles is not a dangerous disease which can be put in the same class as Cancer or AIDS. People live with piles for long years. With better surgical facilities available now, piles operation can be done easily and successfully. The operation is not fraught with any danger. Any fact relating to the health or sickness of the proposer is certainly a material fact which could influence the judgement of a prudent insurer in fixing the premium of determining whether he would take the risk. In this case, even if the life assured had disclosed the fact that he was suffering from piles. LIC would have declined the risk for this reason alone. In any case, as observed already, the piles operation was not the sole cause of death of the life assured in this case. Death was due to alleged neglect of the complications which arose after the piles operation.

Hon'ble Insurance Ombudsman passed the Award that the Life Insurance Corporation of India shall pay to Smt. Shyama Devi Sharma, the complainant in this case and the nominee named by her late husband in his policy No. 193811267, the Sum Assured of Rs.5,00,000/- together with all accrued bonuses, within a period of one month from the date of receipt of the Award.

Delhi Ombudsman Centre
Case No. LI/UP/995
Shri Lakshmi Kant Suthar
Vs.
Life Insurance Corporation of India

Award Dated 3.12.2003

The complaint of Shri Lakshmi Kant Suthar is that LIC has not paid him the death claim under Policy No.182956783 taken by his son late Shri A.K.Suthar who died on 1.9.2002 in a road accident. The Office of Insurance Ombudsman, Delhi wrote to the complainant on 24.9.2003 asking him to furnish details of his complaint in the prescribed proforma. But he has failed to respond. LIC, Udaipur Division has

informed that the date of commencement of the policy was 28.7.2001 with yearly mode of premium. The next premium, therefore, fell due on 28.7.2002 which was not paid by the life assured. As a result, the policy lapsed and was in a state of lapse at the time of the death of the life assured. 'The policy in this case ran for just one year and did not even acquire any paid up value at the time of the death of the Life assured. Nothing is, therefore, payable to the complainant.

Hon'ble Insurance Ombudsman dismissed the complaint because the policy was in a lapsed condition at the time of the death of the life assured.

Delhi Ombudsman Centre

Case No. LI-DL-II/1023

Smt. Tulsi Devi

Vs.

Life Insurance Corporation of India

Award Dated 8.12.2003

FACTS

The complaint's husband, Shri Darumal died of pulmonary tuberculosis in the R.B.T.B. Hospital, Delhi on 14.05.1998. He had taken a life insurance policy for Rs.30,000/-. The policy commenced on 28.11.1996. The complainant is the nominee named in the policy taken by her husband.

After hearing both the parties and after careful perusal of the relevant records of the case that there is no adequate evidence to repudiate the claim of the complainant on the ground on which it has been actually repudiated.

There is no conclusive evidence to show that Shri Darumal was afflicted with TB even prior to the inception of the policy. The medical attendant of the R.B. TB Hospital has given a certificate in Form No. 3784, in which it is recorded that Shri Darumal had been suffering from TB for one and a half year prior to his death. Shri Darumal died on 14.05.1998. If what is stated in medical attendant's certificate is correct, then, Shri Darumal must have started suffering from TB sometime in November, 1996. However, there is no clear indication as to the source of the history of his TB as recorded in the medical attendant's certificate. Prior to entering the R.B. TB Hospital, Shri Darumal had undergone treatment for TB in the TB clinic in Moti Nagar, Delhi. LIC has not been able to get any useful or reliable information from the TB clinic in Moti Nagar regarding the duration of Shri Darumal's tuberculosis.

The certificate of hospital treatment in Form No. 3816 has not been obtained in this case. The Hon'ble Ombudsman had pointed out earlier in other cases that LIC must insist on obtaining all the prescribed certificates. It is not for the hospital to decide which certificate should be given. It is also not for the hospital to suggest that one certificate alone is sufficient. The hospital is duty bound to provide all the certificates that are prescribed. Form No. 3816 and Form No. 3784 are not quite the same. They are totally different. They are complementary to one another. In Form No. 3816, it is required of the Doctor to state the exact source from which the past history of the illness of the complainant was obtained. If a hospital does not provide the required certificates, then LIC must at once take up the matter with the concerned authorities and insist on the certificates being provided.

In this particular case, the evidence gathered by LIC to repudiate the claim of the complainant is insufficient and inconclusive.

In the result, therefore, the Hon'ble Ombudsman passed the Award that Life Insurance Corporation of India shall pay to Smt. Tulsi Devi, the complainant in this case and the nominee named by her late husband Shri Darumal, in his policy, the full sum assured of Rs.30,000/- together with all accrued bonuses, within a period of one month from the date of receipt of the Award.

Delhi Ombudsman Centre
Case No. LI-DL-II/1025
Smt. Rajni Bala
Vs.
Life Insurance Corporation of India

Award Dated 8.12.2003

FACTS

The policy taken by the complaint's late husband, Shri Kamal Kumar commenced in August, 1996. The policy was in force -at the time of his death; he died on 31.10.2001. It is true that the policy had earlier lapsed twice due to non-payment of premium, once in February, 1997 and again in August, 1998. It was revived twice. The second revival was w.e.f. 12.04.1999. After that there was no lapse.

LIC is regarding the revived policy as a new contract commencing from 12.04.1999. This view is contrary to the ruling given by the Supreme Court in the case of Mithoolal Nayak Vs LIC [AIR 1962 Supreme Court 814 (V 49 c117)) on the scope of Section 45 of the Insurance Act, 1938. According to the said ruling, the second part of Section 45 of the Insurance Act, 1938 cannot be applied to the revival of the policy. Since the life assured has died more than two years after the policy was originally effected, payment of the death claim is now a statutory liability which must be discharged at once by LIC.

The representative of LIC stated before the Ombudsman that there is no evidence available with LIC to call in question any statement made by the life assured in the original proposal for insurance regarding his state of health. After hearing the representative of LIC and after careful consideration of the facts of the case, there is no valid ground for repudiating the claim of the complainant.

In the result, therefore, the Hon'ble Ombudsman passed the following Award:-

- (1) Life Insurance Corporation of India shall pay to Smt. Rajni Bala, the complainant and the nominee named by her late husband in his policy No. 120554124, the sum assured of Rs.35,000/- together with all accrued bonuses; and
- (2) Life Insurance Corporation of India shall pay to Smt. Rajni Bala, penal interest @ 8.25% per annum on the said sum assured plus bonuses, for the period from 01.11.2001 to the date of actual payment.

Delhi Ombudsman Centre
Case No. LI/BK/996
Smt. Urmila Devi
Vs.

Life Insurance Corporation of India

Award Dated 2.1.2004

FACTS

The complainant's late husband, Shri Bharat Singh, died in a train accident on 02.08.1999. The complainant gave intimation of his death to Life Insurance Corporation of India, on 29.09.1999. The same was received in LIC on 1.10.1999. While giving intimation regarding her husband's death in a train accident, the complainant had also requested LIC to pay her the benefit due to her under policy No. 500426182, taken by her husband. LIC had paid the basic sum assured plus Bonus (amounting to Rs.53,100/-) to the complainant on 20.06.2000 and the Accident Benefit (equal to the sum assured of Rs.50,000/-) was paid on 15.11.2003. As may be seen from the various dates quoted above, there has been considerable delay on the part of LIC in paying the Basic Sum Assured plus Bonus. The payment was made nearly ten months after the date of death. The payment of the Accident Benefit was delayed even more. The payment was made only on 15.11.2003.

Considering the facts and circumstances of this case, LIC should not have entertained any doubts about the accidental death of the life assured. He died in a train accident which must have been widely publicised. It would have been sufficient for LIC to verify that the life assured was travelling in the train which met with the accident, and that he had indeed died due to the accident.

It was held by the Hon'ble Insurance Ombudsman that Life Insurance Corporation of India shall pay to the complainant, penal interest @ 8.25% per annum on both the sums already paid (Basic Sum Assured + Bonus and Accident Benefit) for the period from 1.12.1999 to the date of actual payment.

Delhi Ombudsman Centre

Case No. LI-DL-III/1051

Smt. Kirti Khurana

Vs.

Life Insurance Corporation of India

Award Dated 30.1.2004

FACTS

The policy commenced on 28.04.1997. It lapsed in April, 1998 due to non-payment of premium. It was revived with effect from 30.1.1999 on the basis of Declaration of Good Health (DGH) made by the life assured. The life assured died on 6.11.1999 in the GB Pant Hospital, New Delhi. Primary cause of death was Cerebro Vascular Accident (CVA) with embolic stroke.

The claim of the complainant was repudiated by LIC on the ground that prior to the revival of the policy, the complainant was suffering from Paralysis for which he had undergone treatment and that he had suppressed this fact in the DGH.

The condition relating to revival of discontinued policies as stated in the policy bond is reproduced below: -

"Revival of Discontinued Policies : If the policy has lapsed, it may be revived during the life time of the Life Assured, but within a period of 5 years from the date of the first unpaid premium and before the date of maturity, on submission of proof of

continued insurability to the satisfaction of the Corporation and the payment of all arrears of premium together with interest at such rate as may be fixed by Corporation from time to time compounding half - yearly. The Corporation reserves the right to accept or decline the revival of discontinued policy. The revival of a discontinued policy shall take effect only after the same is approved by Corporation and is specifically communicated to the Life Assured."

The practice (adopted by LIC) of revival of discontinued policies on the basis of a mere DGH is not correct. A declaration is in the nature of an assertion. It is not proof. The expression used in the policy bond is " proof of continued insurability to the satisfaction of the Corporation". LIC should have asked the life assured to undergo a medical examination, the medical report would have constituted proof. It is a fact of life that as one ages, the flesh becomes heir to a thousand ills. The seeds of dissolution are inherent in the nature of things. It was, therefore, necessary for LIC to subject the life assured to a strict medical examination before accepting his proposal for revival of the lapsed policy. This was not done. On the contrary, LIC merely relied on the DGH given by the life assured. In any case, LIC had accepted the DGH as satisfactory proof of continued insurability. Having accepted this proof, LIC cannot now question it.

LIC has failed to produce satisfactory evidence to show that the life assured had suppressed material facts in the DGH given by him at the time of revival of his lapsed policy.

In the result, therefore, the Hon'ble Ombudsman passed the Award that the Life Insurance Corporation of India shall pay to Smt. Kirti Khurana, the complainant in this case, all the death benefits due to her under policy No.330330203 taken by her husband, Shri Satish Kumar Khurana, within a period of one month from the date of receipt of the Award. The death benefits would, include the sum assured of Rs.1,00,000/- together with all accrued bonuses.

Guwhati Ombudsman Centre
Case No. (i) L/LIC/24/25/03-04/Ghy. &
(ii) L/LIC/24/26/2003-04/Ghy.
Sri Binod Chowtal & Mrs. Ambasee Bashu
Vs.
Life Insurance Corporation of India

Award Dated 8.10.2003

Both complaints were received from son and wife of late assured. The late assured had purchased 3 policies numbering 482296934,482296175,481529734 for sum assured Rs.25,000/- Rs.25,000/- & Rs.50,000/- respectively the policies were under Salary Savings Scheme - were in force till the death of the policy holder on 27.9.2000. The premium were regularly collected from salary of policy holder by the employer Asstt. Executive Engineer, Samaguri, Nagaon, Assam.

The grievance of the complainants was for delay in settlement of the claim. Evidence discussed in respect of policy no. 482296934 (sum assured Rs.25,000/-). The claim was admitted for payment of basic sum assured + bonus ex-gratia basis. In respect of other policy it was found from evidence that the premiums were deducted and deposited with the LIC, Nagaon Branch. In both the cases authority has certified the deduction of premium from the salary of the DLA. The opposite party was found liable for the payment and hence directed to pay the claim amount as per rules within one month from the date of receipt of this order.

Guwhati Ombudsman Centre

Case No. L/LIC/21/31/2003-2004/GHY
Sri Tulsi Malakar
Vs.
Life Insurance Corporation of India

Award Dated 14.10.2003

The grievance of the complainant relates to non payment of balance amount of death claim. The complainant purchased a LIC policy No.481661962 in the name of his late wife for sum assured Rs.50,000/- under T/T 133/24 (triple cover). The opposite party paid Rs.25,000/- considering that the total sum assured allowable to a Female Category III is Rs.50,000/- only. Evidence discussed. The underwriting department converted half-yearly premium to yearly premium without the consent of the life assured - the decision of the underwriting department for payment of Rs.76,900/- which was paid to the complainant was found valid & at the same time the subsequent payment of premium when the underwriting department converted half- yearly premium to yearly premium shall be refunded to the complainant if not already refunded.

Guwhati Ombudsman Centre
Case No. L/LIC/21/47/2003-2004/GHY
Sri Giridhar Das
Vs.
Life Insurance Corporation of India

Award Dated 14.10.2003

The complaint relates to repudiation of claim. The late assured purchased a policy from the opposite party for sum assured Rs.10,000/- The life assured expired on 12.02.2002 & claim was placed before the opposite party in due time. The opposite party repudiated the claim. Evidence discussed. It is found that at time of revival of the policy the late assured was suffering from Hypertension. The primary cause of death was Cerebro Vascular accident (Stroke) & secondary cause was essential Hypertension (High Blood Pressure). Repudiation found correct.

Guwhati Ombudsman Centre
Case No. L/LIC/24/41/2003-2004/GHY
Sri K. C. Dass
Vs.
Life Insurance Corporation of India

Award Dated 20.10.2003

The grievance was for delay in settlement of death claim. 4 policies No.440312267, 440307574,440758271,440758279 were purchased by the late assured who happens to be the wife of the complainant. The first 2 policies were settled & claim amount paid - the other 2 policies were under Salary Savings Scheme which were not settled. Evidence discussed. The SSS mode is intended for the purpose of giving service to the policyholder & hence responsibility lies with the employer to deduct the amount. The opposite party deducted the amount upto January 1999 & thereafter did not deduct the premium from the commission paid to the DLA. The fault was found to be with the opposite party & directed to pay the death claim as per rules deducting the unpaid premiums with interest.

Guwhati Ombudsman Centre

Case No. L/LIC/24/52/2003-2004/GHY
Sri Ramo Thakur
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2003

Policy No. - 441701239. The grievance of the complainants was for delay in settlement of claim. Evidence discussed - the discrepancy cropped up relating to identity of life assured and the person died due to snake bite. The case was an early death claim. The report relating to identity remained to be settled. The opposite party was directed to take the matter expeditiously and to dispose off the matter within 1 month from the date of receipt of this order.

Guwhati Ombudsman Centre
Case No. L/LIC/21/48/2003-2004/GHY
Smt. Damayanti Nath
Vs.
Life Insurance Corporation of India

Award Dated 28.10.2003

The grievance of the complainant relates to rejection of the claim by the opposite party LIC. The late husband of the complainant purchased a policy no. 481928602 from the opposite party for sum assured Rs.25,000/-. The date of commencement was 15.09.1998. The late assured expired on 04.06.2000. The claim was repudiated by the opposite party. - Evidence discussed in the background of one blood report dtd. 18.08.1998 & a prescription dtd. 27.04.1997 where it was found that the disease of the late assured was Koch (+) & blood sugar level (p.p.) 258. The patient was found to be suffering from diabetics mellitus & Pul.Koch(+). The complainant as widow of the late assured was awarded ex-gratia for Rs.3,000/- on compassionate ground.

Guwhati Ombudsman Centre
Case No. L/LIC/21/55/2003-2004/GHY
Sri Krishna Borgohain
Vs.
Life Insurance Corporation of India

Award Dated 12.11.2003

The grievance of the complainant was for repudiation of death claim. The late assured purchased a policy No. 41076308 for sum assured Rs.83,000/-. The late assured expired on 20.05.2001. Claim was placed before the opposite party which was repudiated. Evidence discussed. The record shows that the duration of the policy was more than 2 years & sole ground of repudiation was suppression of material fact of disease & deliberated mis-statement /incorrect statement regarding health. Section 45 of the insurance Act 1998 perused & discussed in the background of decision of APEX Court. In AIR 2001 Supreme Court 549 - it has been decided matter of repudiation of the policy should not be dealt with in a mechanical & routine manner but should be one of extreme care & caution. Therefore, the authority-in-charge of the management of the affairs of the Corporation should bear in mind that its credibility & repudiation depend on its prompt & efficient service. It is not in the record that the late assured had knowledge about any pre-existing disease which he had deliberately suppressed. Repudiation found unjustified & directed for payment of sum assured, bonus as per rules.

Guwhati Ombudsman Centre
Case No. L/LIC/21/54/2003-2004/GHY
Mrs. Runu Bora
Vs.

Life Insurance Corporation of India

Award Dated 18.11.2003

This is a case where the claim was repudiated against a death claim. 2 policies No. 440970696, 440968508 were purchased by the late assured who had expired on 07.02.2002. The repudiation was done on the ground of non disclosure of material fact regarding health. Evidence discussed. Record from the employer disclose the fact of medical treatment on several occasion. The fact reveals that the late assured was suffering from infective Hepatitis & remained absent from duty for 45 days with effect from 19.04.1999. There was suppression of material fact of disease at the time of taking of the policy. The opposite party rightly repudiated the claim & the petition rejected.

Guwhati Ombudsman Centre
Case No. L/LIC/24/33/2003-2004/GHY
Smt. Manika Baruah
Vs.

Life Insurance Corporation of India

Award Dated 20.11.2003

The grievance of the complainant relates to non settlement of death claim. The late assured had a policy No. 480586362 under salary saving scheme, Dispur Branch of the opposite party. After the death of life assured claim was placed before opposite party and the opposite party intimated that the claimant "Nominee" is entitled to Rs.14,216/- only. Evidence discussed the opposite party admitted that up to May, 1998, the claim amount is Rs.31,464-50. The claimant is entitled for that amount which the opposite party shall pay within 15 days from the date of receipt of the consent letter from the complainant.

Guwhati Ombudsman Centre
Case No. L/LIC/21&24/62/2003-2004/GHY
Smt Chitralkha Sarma
Vs.

Life Insurance Corporation of India

Award Dated 05.12.2003

The matter relates to repudiation/delay in settlement of death claim. 3 policies No. 441080537, 441172754, 440298293 were purchased by the late assured who expired on 27.02.2003. Claim was placed before the opposite party which was repudiated/delayed. Evidence discussed. The complainant admitted the settlement of claim in respect of one policy. In respect of other policy it was found that the policy was in lapsed condition at the time of death. All 3 policies were under Table No. 111 & permissible limit in total 3 lakhs. The contention of the opposite party in respect of 3rd policy only for sum assured Rs.1.5 lacs is to be accepted as there was suppression of facts of previous 2 policies. The responsibility of realization of premium from the assured through his employer lies with the insurer. Direction was given to the opposite party to enquire into the facts stated earlier & dispose of the claim as per rules within 1 month from the date of receipt of the award.

Guwhati Ombudsman Centre

Case No. L/LIC/21/57/2003-2004/GHY

Sri Bajendra Deka

Vs.

Life Insurance Corporation of India

Award Dated 16.12.2003

The complaint was for partial repudiation of a death claim under policy no. 482196062. The opposite party repudiated the claim on the ground of suppression of material facts of diseases. Evidence discussed. The complainant in his statement & filled up forms stated that the policy was lapsed & revived on 03.05.2001. The late assured expired on 30.05.2001 & medical certificate shows the primary cause of death as Cerebro Vascular accident & the secondary cause of death as essential Hypertension. He had earlier consulted Dr. Mihir Saikia, GMCH since 13.05.2000. The duration of the policy was 1 year 9 months 2 days & after revival it was for 26 days of duration only. The repudiation was found valid & the petition was rejected.

Guwhati Ombudsman Centre

Case No. L/LIC/24/72/2003-2004/GHY

Smt. Kunjalata Basumatary

Vs.

Life Insurance Corporation of India

Award Dated 17.12.2003

The complaint was for non payment of accident benefit under policy no. 480866028 & 481085088. Evidence discussed. The copy of the Police report, Post Mortem Examination report was taken into consideration. It was found that immediately after the accident the late assured was found inebriated condition & the fact put the case under exclusion clauses because exposure in the risk voluntarily & breach of law had excluded the entire situation outside the purview of definition of "Accident". The decision of repudiation is found correct.

Guwhati Ombudsman Centre

Case No. L/LIC/21/68/2003-2004/GHY

Smt. Rongchi Gagoi

Vs.

Life Insurance Corporation of India

Award Dated 19.12.2003

The complaint was for repudiation of death claim. The late assured had a policy No. 441803850 for Rs.25,000/- who expired on 12.1.03 by fall from cycle. The opposite party repudiated the claim on the ground that late assured was suffering from "Hypertension" which fact was deliberately suppressed. Evidence discussed - it is found in record that in the column primary cause of death something was written with pen Secondary cause of death Cardio Vascular accident. No investigation was done whether fall from Cycle was voluntarily or due to any dash. The cyclist might have dashed with a another cycle or anything else. History of late assured showed there was no symptom of any illness or absence during the service period and no leave taken on account of illness. The Opposite party was directed to settle the claim as per rules within 1 month and repudiation was found not tenable.

Guwhati Ombudsman Centre

Case No. L/LIC/21/69/2003-2004/GHY

Smt. Malati Basfor

Vs.

Life Insurance Corporation of India

Award Dated 24.12.2003

The complaint was for partial repudiation of death claim under policy no. 441542306. The opposite party stated that the life assured did not disclose material fact regarding his health at the time of taking policy. Evidence discussed - the certificate from Dr. A. K. Kalita of B. Barooah Cancer Institute, Guwahati advising the late assured for taking 3 months rest from 07.12.01 due to his suffering from Cancer. Looking into the record the late assured was found to have suppressed the material fact of disease and the opposite party rightly repudiated the claim. Considering unusual delay in acceptance of the proposal by the opposite party during which time cancer might have developed & considering the plight of a widow belonging to Horijan community & on compassionate ground hereby award a sum of Rs.5,000/-.

Kolkata Ombudsman Centre

Case No. 521/12/L/2002-2003

Smt. Ashalata Sarkar

Vs.

Life Insurance Corporation of India

Award Dated 03.11.2003

Nature of Complainant : The complaint is regarding repudiation of death claim

Facts / Submissions

Smt. Ashalata Sarkar, wife of DLA- Late Baneswar Sarkar stated in her complaint that her husband committed suicide by drinking poison. All the papers relating to the policy were submitted to the Insurer. The Insurer called for treatment particulars of the Insured in S.S.K.M., Kolkata. From the particulars it was revealed that the DLA suffered from stomach disorder. The policy taken out by him lapsed for non-payment of premium which was revived on payment of the arrear premiums on 29.11.2000 for the period from 12/99 to 09/2000. The policy lapsed without acquiring paid up value. LA died on 12.02.2001 after 2 months of revival of the policy. Treating this as a very early claim, LIC called for Claim Form 'B & B-1'. From the claim forms issued by Dr. P. K. Bhar, it was revealed that Late Baneswar Sarkar had abdominal pain and gastic outlet obstruction since April, 2000 for which he was treated in S.S.K.M. Hospital from 04.07.2000 and had undergone a test like Endoscopy which was not disclosed in the DGH executed/submitted on 29.11.2000. The insurer repudiated the claim on the ground of withholding of material information and deliberate mis-statement regarding his health.

Held :

It was held that DLA had suppressed facts material to the insurance contract as he was not in good health at the time of revival of the policy. The insurer was justified in repudiating the claim. The decision was upheld.

Kolkata Ombudsman Centre

Case No. 505 & 506 / 12 / L / 2002-2003

Smt. Nirmla Devi

Vs.

Life Insurance Corporation of India

Award Dated 03.11.2003

Nature of complainant : The complaint is regarding repudiation of eath claim

Facts/Submission :

The DLA had two policies for SA Rs.50,000/- and Rs.20,000/- each with DOC 21.11.1998 and 25.04.1999 respectively. LA died on 14. 12. 1999 - cause of death being CRF in a case of CVA. Since both the claims were early in nature, the LIC called for Claim Forms 'A', 'B', 'B- 1', 'C' & ' E' . It was evident from Claim Form ' E' that DLA have availed of leave on medical ground from 10.05. 1995 to 08.06.96 for typhoid and again from 22. 11. 1996 to 07.01.1997 for Infectives Hepatitis with Vertigo. Dr. S. R. Sharma, Medical Attendant, confirmed in his certificate dated 25.09.2000 that during the period DLA was under his treatment. DLA, however, had replied question No. 11 (a), (b) & (d) of the proposal form in the negative. Smt. Nirmala. Devi, the complainant, denied the fact of her husband suffering from any ailment.

Held :

Considering the facts and the submissions made by the two parties, it was observed that DLA had furnished incorrect information regarding his health in reply to question No. 11. The document produced by the Insurer established that the assured had been suffering from certain ailments and remained absent from his office on medical ground. Repudiation of claim was upheld.

Kolkata Ombudsman Centre
Case No. 574 / 12 / L / 2002-2003
Smt. Saroj Devi
Vs.
Life Insurance Corporation of India

Award Dated 04.11.2003

Nature of complaint : Partial repudiation of death claim.

Facts/Submission :

The DLA - Late Shri S. N. Thakur had taken a policy for sum assured of Rs.50,000/- under 'T/T 75-20 with DOC 28.3.90. The policy lapsed due to non-payment of premium due in March, 1998. He got the policy revived on 31.03.1999 after payment of 3 yearly premium and submission of Medical report and DGH. He died on 18.08.2000 - one year four months 18 days of the revival of the policy. LIC, Muzaffarpur Divisional Office vide their letter dated 31.12.2001 offered to pay paid up value secured by the policy on the date the policy lapsed. This was on the ground that deliberate misstatement and withholding of material information was found in the personal statement regarding health, submitted at the time of revival of the policy. The claimant appealed to Zonal Manager, LIC of India, for review of the case. LIC vide their letter dated 21.09.2002 asked the claimant to submit the following documents :

- i) Case history sheet of AIIMS;
- ii) BHT from AIIMS.

It appears that the case history sheet and BHT were not submitted. LIC, Muzaffarur Divisional Office through their Delhi office obtained a copy of the history sheet of the AIIMS. This history sheet confirmed that the deceased was a known case of hypertension since last 3 to 4 years. LIC, Zonal Office accordingly upheld the partial repudiation decision of the Divisional Office and it was conveyed to the claimant on 18.11.2002.

Held :

It was found that when the lapsed policy was revived, the DLA had given a declaration of good health. But in view of his treatment at AIIMS, the declaration was not correct. This amounted to withholding of information at the time of revival of the policy. LIC enquired about his statement as this was an early claim and found that the statement given was contrary to the history of treatment of the deceased person. These facts were brought to the notice of the claimant by LIC vide their letter dated 31.12.2001. Hence, the repudiation by the Insurer was upheld.

Kolkata Ombudsman Centre
Case No. 773 / 3 / L / 2002-2003
Smt. Geetu Peswanai
Vs.

Life Insurance Corporation of India

Award Dated 23.02.2004

Nature of complaint : Non-payment of double accident benefit of death claim

Fact/Submissions :

The complainant, wife of DLA - S. K. Peswani, submitted that her husband fell from scooter on 16.04.1999 and fractured his left forearm bone. He was admitted in hospital on 23.04.1999 and died after operation on 24.04.1999 due to acute pulmonary embolism, LIC paid death claim under five policies taken by her deceased husband, but repudiated the DAB as there was no FIR or post mortem report.

Held :

Under normal circumstances, whenever an accident takes place, Panchnama is made at the place of accident. In some places First Information Report (FIR) is registered with the police. Besides, if the accident has resulted in death of a person, an inquest is made by the police. After holding the inquest, the body is usually sent for post- mortem examination and a detailed report is made out by the surgeon carrying out the post-mortem. The report gives the probable cause of death. Where the inquest is held by the Coroner, he gives his verdict about the circumstances and cause of death. The above reports/ certificates/orders are called for in order to consider the DAB to the claimants.

In the instant case, the deceased fell from scooter on 16.04. 1999, fractured his left forearm bones, was admitted in a clinic on 23.04.1999 and died after an operation on 24.04.1999. As this was a case of fall from a scooter, the complainant did not consider it necessary to report it to the police and since there was no instantaneous death, the question of post-mortem did not arise. The explanation of the claimant regarding absence of FIR or post-mortem was acceptable as the events leading to the death of the deceased was different from the circumstances where FIR or post-mortem report of the Coroner were called for. The complainant had already furnished doctor's certificate, eye witness accounts, hospital details etc. There was no dispute regarding the death of the person as the death claims had already been settled. The only point considered was whether the death was due to accident on account of fall from scooter.

Dr. Kailash Prasad in his certificate dated 29.04.2000 stated that -

“ He has undergone operation for the same on 24.04.2003 and he died suddenly about 2 (Two) hours after completion of operation probably due to Acute Pulmonary embolism which could have occurred either due to fracture itself caused by accident or as a post-operative complications.”

There was also eye witness to the accident. Other records were also there on the subject. The insurer should have considered these materials for deciding the claim instead of routinely repudiating it because FIR and post mortem reports were not there. The requirement of evidence depend an the nature of the case and therefore, in all cases FIR or post-mortem report are not available. LIC Manuals provides that where accidents are not reported to the police and no police inquest or post-mortem examination is carried out, the claimant must establish accident as a cause of death by other cogent evidence. The alternative proof such as statement of eye witness to the accident, the result of enquiry by the insurer, attending physician or hospital certificate may be sufficient to establish that the death was by an accident and not by any other factor/ causes excluded by the policy condition.

In view of the above position, LIC was directed to review their decision and consider the other alternative evidence and examine whether the evidence was such that the death could be related to the accident. The degree of evidence might not be conclusive but if it was **sufficient** to justify a conclusion, no technical plea should be taken to repudiate the claim. LIC was also directed to allow an opportunity to the complainant of being heard, if necessary, before deciding the claim on merit.

Kolkata Ombudsman Centre
Case No. 550/12/L/2002-2003
Smt. Jayanti Ray
Vs.

Life Insurance Corporation of India

Award Dated 27.02.2004

Nature of complainant : Repudiation of death claim on the ground of non-disclosure fo material facts.

Fact/Submissions :

Smt. Jayanti Ray, wife and nominee of DLA - Shri Shyamal Kanti Ray, submitted in her complaint that her husband took a life insurance policy with date of commencement 15.1 1.1999 under T/T 14-25 for SA Rs.50,000/- by depositing the proposal on 08.11.1999. The LA expired on 17.11.1999 i.e. within two day from the DOC of the policy, in the hospital due to Infective Hepatitis and Hepato renal failure and severe Anaemia. The insurer repudiated the claim on the ground of withholding correct information about his health by the DLA in column no. 11 (a), 11(d) and (I) in the proposal form. The decision of repudiation was upheld by Zonal Claim Review Committee. The complainant-nominee contended that the DLA was free from any disease when the proposal form was submitted on 25.10.1999 who became ill on 14.11.1999 and died on 17.11.1999. The insurer submitted that they repudiated the claim on the non-disclosure of material information in the proposal form and on the basis of information furnished by the hospital and doctor in claim form B & B1 which showed that the DLA was suffering from ailments at the time of signing the proposal form and died due to multiple diseases viz, history of ailment of pain in abdomen, low grade fever, high colour urine and clay coloured stool for one month and claim form 'E' indicated that the DLA last attended his duty on 14.10.1999 i.e. one month prior to his death.

Held :

It was considered that the DLA was not in state of good health at the time of effecting the policy. Contract of life insurance is a contract of 'utmost good faith' which requires full disclosure of material information/facts concerning health, history of past illness, usual state of health of the LA. But DLA did not disclose the relevant information in the proposal and personal statement. Therefore, decision of repudiation of the insurer upheld.

Kolkata Ombudsman Centre
Case No. 724/2/L/2002-2003
Smt. Kavita Mehta
Vs.
Life Insurance Corporation of India

Award Dated 31.03.2004

Nature of complaint : Non-payment of interest for delay in settlement of death claims.

Fact/Submissions :

The complainant, Smt. Kavita Mehta, mother of the DLA - Shri Bhavin Mehta, stated that she lodged death claims in respect of two life insurance policies to LIC, City Branch No. 6 and one policy to City Branch No. 16 on 28.02.2001. The death claims for two policies were settled on 15.03.2002 and on 06.09.2002 for other policy. But LIC did not pay interest on delayed settlement of death claims. The insurer submitted that claimant had not made any claim for penal interest for delayed settlement of death claims.

Held :

On the basis of particulars available on record, it was observed that death claims in respect of two policies occurred within two years and in respect of the other policy within one year. The delay might have been caused due to enquire/investigation and fulfillment of other requirements of these high sum assured policies. Further, in case of one policy, the nominee had expired. However, the claimant received the payment in March, 2002 in full and final settlement of the claim without any objection or protest, and reportedly claimed penal interest in December, 2002. LIC denied having received any such letter. Receipt of death claims discharging pre-receipted voucher towards full and final settlement of claim and subsequent claim of penal interest after long interval, that too without first representing to the insurer, raised doubt about the genuineness of the claim itself and authenticity of the letter claiming interest to the insurer. The complaint was dismissed.

Hyderabad Ombudsman Centre
Case No. L/1018-03-04
Smt. P. Vimala Bai
Vs.
Life Insurance Corporation of India

Award Dated 8.10.2003

Sri P.Narsing Rao, aged 42 years, Telephone Mechanic working in Department of Telecommunications, took the above policies, details of which are mentioned below: -

Policy No.	:	640785958	641772538
Date of Proposal	:	31.03.1999	31.03.1999

Date of Acceptance/FPR . :	31.03.1999	31.03.1999
Sum Assured. :	1,00,000	1,00,000
Plan & Term :	14-18	14-18
Date of commencement		
of risk :	28.03.1999	28.03.1999
Date of Death :	16.09.2001	16.09.2001
Date of Repudiation :	25.06.2002	25.06.2002
Policy issued under :	Non-Medical Scheme:	
Cause of death :	Heart Attack	

Section 45 of Insurance Act 1938 is applicable under both the claims

FACTS OF THE CASE

One Sri P.Narsing Rao, working as Telephonic Mechanic in the Department of Telecommunication, took the above insurance policies from Hyderabad City Branch Nos. 11 and 12 under Hyderabad Division. The Life Assured expired on 16.09.2001. His wife Smt. P.Vimala Bai, who is the nominee under the policies, lodged a claim with the LIC. The claims were repudiated by the LIC on the ground that i) both the above policies were in lapsed condition due to non payment of premia due April & May 2002 and (ii) to consider the claims under Ex-gratia payment it was observed that the deceased suppressed the fact that before taking the policies, he suffered from Hypertension, CAD, Effort Angina which confirmed positive for TMT and took treatment in Medwin Hospital, Hyderabad. Smt. P.Vimala Bai, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Hyderabad Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 14.08.2003 at Hyderabad. Smt. P.Vimala Bai, wife and nominee of the deceased life assured attended the hearing. Sri B.V.S.Prasad, Manager (Claims) LIC, Hyderabad Division represented the LIC.

Observations of Ombudsman: -

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

- a) Section 45 of Insurance Act 1938 is applicable under both the claims. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- b) The LIC obtained discharge summary no 9701199 from Medwin Hospitals, Hyderabad. According to the discharge summary, it was observed that the life assured was treated in the hospital during the period from 07.02.1997 to 09.02.1997 as inpatient for 3 days and the life assured was diagnosed as "Hypertension, coronary ART DISEASE - EFFORT ANGINA, STRONGLY POSITIVE TMT". It was also reported that the life assured was admitted with complaints of hypertension, chest pain since 15 days. The life assured was also reportedly advised a coronary angiography but preferred to have that done at a later date. Thus it is established beyond doubt that the life assured suppressed vital material information relating to his health and took the insurance policy knowing fully about his earlier treatment.

- c) However, subsequent to this treatment for chest pain in Medwin Hospital at Hyderabad, the insurer did not submit any other case history or any treatment particulars for the chest pain or coronary artery disease. It is a fact that the life assured suffered chest pain and diagnosed as a patient of coronary artery in February 1997. Subsequently he took two insurance policies in the month of March 1999 i.e. after a clear gap of 2 years from the first episode of chest pain in the year 1997. The life assured survived up to 16.09.2001. This means that the life assured survived a total period of 4½ years from the date of first and only episode about which the insurer submitted the evidence. Thus I find that there was no malafide intention on the part of the life assured.
- d) Since all the ingredients required under Sec.45 of the Insurance Act 1938 have not been fulfilled by the insurer for repudiating the claim, I feel that the action of the insurer in rejecting the claims in full is not justified.
- e) In view of the above, I am of the view that ends of justice would be adequately met if the insurer accepts the claims for a sum of Rs.50,000 under each of the above policies under Ex-gratia.
- f) I, therefore, direct the insurer to settle the claims for Rs.50,000 each under the above policies under Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

The complaint is admitted as Ex-gratia for Rs.50,000 under each of the above policies.

Hyderabad Ombudsman Centre

Case No. L/2024/02-03

Smt. Madamma

Vs.

Life Insurance Corporation of India

Award Dated 8.10.2003

The life assured took an insurance policy for Rs.50,000 on 16.09.1999. The life assured died on 15.10.2000 due to Pulmonary Oedema-chronic Renal failure with End Stage Renal Disease-Hypertension. His mother Smt. Madamma, who is the nominee under the policy, lodged a claim for payment of the sum insured under the policy with the LIC. The claim was repudiated by LIC on the ground that the life assured before taking the policy was treated in Sri Satya Sai Institute of Higher Medical Sciences, Puttaparthi on 19.11.1998. The life assured diagnosed to be suffering from GUTB.RT. Calcified Non- functioning Kidney. LT HUDN & poorly functioning kidney with CRF, HTN. This being a vital material information, which was suppressed by the life assured while taking the policy, the LIC repudiated the claim. Smt. Madamma, the complainant and nominee represented to the Zonal Office Claims Review Committee, Hyderabad for review. ZO: CRC Hyderabad also upheld the repudiation action of the insurer. The claimant preferred a complaint to this office.

Observations of Ombudsman :-

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

- a) Section 45 of Insurance Act 1938 is applicable under the claim. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.

- b) The LIC obtained discharge summary no. 16819/98 from Sri Sathya Sai Institute of Higher Medical Sciences, Prashanti Gram, Anantapur Dt, Andhra Pradesh. According to the discharge summary, it was observed that the life assured was treated in the hospital during the period from 19.11.1998 to 02.01.1999 as inpatient and the life assured was diagnosed as "GUTB, RI, Calcified Non Functioning Kidney, LT HDUN and poorly functioning Kidney with CRF, HTN". It was also reported that the life assured was admitted with complaints of increased frequency, Nocturia since 10 years, Hamaturia with clots on and off since 3 years. The life assured was also reported to have had Rt. Nephro-terectomy and Rt.Ureteroureterostomy and DJ stenting. Thus it is established beyond doubt that the life assured suppressed vital material information relating to his health and took the insurance policy knowing fully about his earlier treatments.
- c) The life assured was admitted in BKF- Chande Nephro urology centre, Bangalore vide Hos. No.15754 and died there on 15.10.2000. The cause of death was pulmonary oedema, CRF with ESRD- HTN- Respiratory failure. Incidentally, this has nexus to the material facts suppressed by the insured.
- d) Had the life assured disclosed the material facts, which he had suppressed, according to the underwriting norms of LIC, the Zonal Medical Referee opined that the proposal for insurance would have been postponed for one year. In other words his proposal for insurance would not have been considered immediately;
- e) By suppressing the material facts, which were well within his knowledge, the life assured induced the insurer for accepting the policy in question.
- f) Since all the ingredients required under Sec.45 of the Insurance Act 1938 have been fulfilled by the insurer for repudiating the claim, I do not find any reason to interfere with the decision of the insurer.

The complaint is dismissed.

Hyderabad Ombudsman Centre

Case No. L/1098/2003-04

Smt. B. Lakshmi

Vs.

Life Insurance Corporation of India

Award Dated 8.10.2003

Sri B.Lingaiah, aged 48 years, Clerk working in Singareni Collieries Ltd., took the above policy, details of which are mentioned below: -

Policy No.	:	682457478
Date of Proposal	:	26.06.1998
Date of Acceptance/FPR	:	28.06.1998
Sum Assured	:	50,000
Plan & Term	:	123-12
Date of commencement of risk	:	28.06.1998
Date of Death	:	10.11.2000
Date of Repudiation	:	08.04.2002
Cause of death	:	Tuberculosis

Section 45 of Insurance Act 1938 is applicable under the claim

FACTS OF THE CASE

The life assured late Sri B.Lingaiah, Working as clerk in Singareni Collieries Ltd., took the above policy from Ramagundam Branch under Karimnagar Division, of LIC of India as per the details furnished. The life assured died due to cardio-respiratory arrest. The duration of the claim was 2 years and 4 months. The claim under the policy was repudiated by LIC on the grounds of suppression of material facts, as the life assured did not disclose his treatment for tuberculosis prior to taking the insurance policy. It was also alleged that the life assured was on medical leave for 32 days from 30.03.1998 to 30.04.1998 for treatment of the same. Smt. B.Lakshmi, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Karimnagar Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 06.10.2003 at Hyderabad. Smt. B.Lakshmi, wife and nominee of the deceased life assured attended the hearing. Sri A.Panduranga Rao, Manager (Claims) LIC, Karimnagar Division represented the LIC.

Observations of Ombudsman:

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

- a) Section 45 of Insurance Act 1938 is applicable under both the claims. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- b) In support of the repudiation, the insurer obtained a certificate dated 15.10.2001 issued by the Medical Officer, Area Hospital, Ramagundam wherein the doctor reported that the life assured was under TB special leave during the period 30.03.1998 to 30.04.1998. The LIC also obtained information from the employer to the effect that the life assured availed leave on sick grounds during the above period.
- c) The insurer rightly held that the life assured did not disclose the material fact of his proceeding on TB special leave from 30.03.1998 to 30.04.1998. But they have not brought out any evidence about the nature of the life assured's TB and the details and duration of the treatment thereof. TB is of several kinds ranging from asymptotic primary stage, which did not require any treatment, to secondary stage spreading gradually to various other organs than lungs. In India about 30 % of population are always affected by TB of different kinds. As the life assured reported to duty after the leave and as he was apparently found to be fit to resume his duties, he could be under the mistaken impression that he did not have to mention about his leave in the proposal form. However, the point at issue is whether the life assured did not disclose about the leave with a fraudulent motive. There is hardly any evidence for this. After all, the life assured lived for about three years after the leave. There is no evidence that the life assured had either applied for further leave later for treatment of TB or been treated in any hospital or by any doctor. Thus the insurer failed to prove "mens rea" which is the essential ingredient of fraud.
- d) All the ingredients required for repudiation when Sec.45 is applicable are not fulfilled and as such, the repudiation action of the insurer is not justified.
- e) I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is admitted.

Hyderabad Ombudsman Centre
Case No. L/1087/2003-04
Smt. J.Radha

Vs.
Life Insurance Corporation of India

Award Dated 10.10.2003

Sri J.Narasaiah, working as Trammer in Singareni Collieries Co.Ltd, Bellampalle took the following two policies:-

Policy No.	:	681172735	682333423
Date of Proposal	:	14.03.1993	29.03.1996
Date of Acceptance/FPR	:	28.03.1993	28.03.1996
Sum Assured	:	25,000	25,000
Plan & Term	:	74-15	14-10
Date of Death	:	29.10.1999	
Date of Repudiation	:	18.07.2001	

One Sri J.Narasaiah, working as Trammer in Singareni Collieries Co.Ltd., took the above insurance policies from Bellampalle Branch under Karimnagar Division. The life assured died due to multiple honey bee stings while he was on duty. The claims for Basic Sum Assured were already settled by LIC but did not settle 'accidental benefits under the policies. Smt. J. Radha, who is the nominee under the policy, lodged a claim with the LIC for settlement of accidental claims. The claims for Accidental Benefits were rejected/repudiated by LIC as the cause of death (multiple honeybee stings) did not come under the provisions of accidental clause. Smt. J.Radha, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Karimnagar Division. Aggrieved with the rejection of the claims, the complainant represented to this office.

Observations of Ombudsman:

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

- a) The life assured took two life insurance policies viz. 681172735 and 682333423. The insurer already settled claims under these two policies for Basic Sum Assured. Both the policies cover risk of accident benefit also;
- b) The cause of death was reported to be multiple honeybee stings. M/s. Singareni Collieries Company Limited vide their letter dated 10.10.2000 reported that the cause of death of the life assured was due to accident occurred in the course of and arising out of employment and also allowed to pay compensation;

Consequent on the death of the life assured, police case was registered under Cr.No.75/dated 30.10.1999. The doctor who conducted the post-mortem also opined death of the life assured as Systemic toxic reaction due to multiple bee stings;

- d) The contention of the insurer that the death of the life assured due to honeybee stings does not fulfil policy condition can not be accepted as the multiple honeybee stings are definitely external visible and violent; and the proximate cause of death was multiple honeybee stings only and not of some other disease or ailment;
- e) In view of the above reasons and based on the various evidences submitted by the insurer/insured, I am of the opinion that repudiation/rejection of accidental

claims by the insurer is not justified and I, therefore, direct the insurer settle accidental claims under both the claims.

In the result, the complaint is allowed

Hyderabad Ombudsman Centre
Case No. L-1034/L-1035/2003-04
Smt. Rajamma & Samala Sreelatha
Vs.
Life Insurance Corporation of India

Award Dated 28.10.2003

Sri S. Rajaiah, working in South Central Railway, Secunderabad, took two life insurance policies as per details mentioned below

Policy No.	614966468	600258533
Date of Proposal	05.09.1999	21.09.2000
Date of acceptance/FPR	28.09.1999	30.09.2000
Sum Assured	75,000	1,00,000
Plan & Term	88-20	14-17
Date of Commencement of risk	28.09.1999	28.09.2000
Date of Death	19.09.2001	16.09.2001
Date of repudiation	06.08.2002	06.08.2002
Policy issued under	Non-Medical	Non-Medical

Cause of death Heart Attack Heart Attack **Section 45 of Insurance Act 1938 is applicable under Policy No. 641966468 & under Policy No. 600258533 it is not applicable**

One Samala Rajaiah, working as stock verifier in South Central Railway at Secunderabad took the above policies from Choutuppal and Secunderabad City B. O. No. 14 under Secunderabad Division, of LIC of India. The life assured Samala Rajaiah died on 16.09.2001 in the night while on duty at Mahaboobabad near Warangal, due to Heart Attack. In fact the death occurred while the life assured was asleep in the office premises. His sister Smt. S. Sreelatha and his mother Smt. Rajamma, who were nominees under the respective policies, lodged claims with the LIC. The claims were repudiated by the LIC on the ground that the deceased life assured, while proposing for insurance under the above policy no.641966468 did not disclose the material facts relating to his health, as he had physical deformity. He was affected by polio of both Upper and Lower Left Limbs. He did not, however, disclose these facts in his proposal. Instead he gave false answer under Q.No. 11 (f) of proposal form signed by him on 05.09.1999. Under policy no. 600258533, the life assured did not disclose that, apart from the physical deformity caused due to Polio, he had, about 6 months before he proposed for insurance, suffered from Hypertension and Heart disorder for which he had consulted a medical man and had undergone various tests on 21.06.2000. He did not however, disclose these facts in his proposal dated 21.09.2000.

Smt. S.Sreelatha and Smt. S.Rajamma., the complainants, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Secunderabad. Aggrieved with the rejection of the claim, the complainants represented to this office. A personal hearing was arranged on 15.09.2003 at Hyderabad. Both complainants alongwith Sri S.Ramu (Son of Smt S.Rajamma and Brother of Smt. S.Sreelatha) attended the hearing. Sri Y. Nagaraj, A.O (Claims) LIC, Secunderabad Division represented the LIC.

Observations of Ombudsman:

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

Policy No. 641966468

- i) Sec.45 of Insurance Act, 1938 is applicable to the claim. The implication is that the insurer has to prove both materiality of the facts suppressed and the fraudulent intent on the part of the life assured before repudiating the claim.
- ii) The Postmortem statement No. 187 dated 16.09.2001 submitted by the insurer as evidence contains an observation under Sl.No. 9 External Appearance: " Body is that of a male person age about 40 years good built, post polio residual paralysis of left upper and lower limbs." The observation made in the postmortem report was cited as evidence by the insurer to establish the fact the life assured has indeed suppressed vital material information. Based on this report the insurer repudiated the claim under the policy.
- iii) The insurer in their contention admitted that had the material information relating to polio was disclosed in the proposal dated 05.09.1999, they would not have allowed the life assured an insurance policy under their Jeevan Mitra double cover endowment plan no.88. Instead, they would have granted insurance under endowment policy for the same sum assured i.e. Rs. 75,000/-.
- iv) Keeping in view the above facts, I am of the view that denying claim under the above policy is not in order especially when Part II of the Sec.45 of Insurance Act, 1938 i.e. fraudulent intention on the part of the life assured is not established. When Sec.45 is attracted, the insurer cannot rest his case by merely pointing out failure of the insured to disclose facts relating to treatment health, etc. in the proposal form. He should also prove beyond reasonable doubt that such failure was deliberate and fraudulent. Nothing was done by the insurer in this regard. Moreover by their own admission the insurer is certainly allowing insurance to the prospects having polio/physical deformity. Incidentally, the insurer had settled claim under one more policy that the life assured was holding under no. 640480460.
- iv) In the light of the facts, I am of the opinion that total denial of claim under policy no. 641966468 is not correct and therefore, I direct the insurer to accept the claim for Rs.75,000.

Policy No.600258533 :

- a) Sec.45 of Insurance Act, 1938 is not applicable to the claim. The implication is that the insurer reserves the right to repudiate a claim if there is any untrue averment in the proposal for insurance submitted by the life assured, which only forms the basis for contract between the life assured and the LIC. Contract of Insurance is Contract of Good Faith. Having regard to the facts of the case, I am of the opinion that the insured ought to have disclosed the material facts relating to his health, especially the polio of limbs and the treatment, which he underwent with Dr. D.N. Appa Rao for his heart ailment. Owing to the non-disclosure of the material facts relating to his health, the insured violated the principle of utmost good faith and did not give sufficient opportunity to the insurer for evaluating the risk correctly.
- b) Therefore, I hold, for the reasons mentioned herein above and in the light of the evidences available on record, that the repudiation of the claim by the insurer on the ground that the life assured suppressed material facts is proper, correct

and justified and therefore, does not warrant any interference at my hands. Hence complaint under Policy No. 600258533 is dismissed.

In the result, complaint under Pol.No. 641966468 is allowed for Rs. 75,000 and complaint under Pol.No. 600258533 is dismissed.

Hyderabad Ombudsman Centre

Case No. L/2015-2003-04

Mrs. Munilakshammama

Vs.

Life Insurance Corporation of India

Award Dated 29.10.2003

Sri Muniappa, working as liftman in Reserve Bank of India, Bangalore, took two life insurance policies as per details mentioned below: -

Policy No.	: 612626797	612629148
Date of Proposal	: 19.11.1998	18.05.1999
Date of Acceptance/FPR :	20.11.1998	15.06.1999
Sum Assured	: 50,000	75,000
Plan & Term	: 106-15	14-15
Date of commencement of risk	: 20.11.1998	15.06.1998
Date of Death	: 29.10.2001	29.10.2001
Date of Repudiation	: 10.04.2002	10.04.2002
Cause of death	: Cardio- Pulmonary failure	

One Sri Muniyappa, working as liftman in Reserve Bank of India, Bangalore took the above insurance policy from City Branch I under Bangalore Division I. The life assured died on 29.10.2001 due to cardio-Pulmonary failure. The LIC repudiated the claims made by the complainant citing the reason that the life assured, while proposing for insurance under the above policies, gave false answers to certain questions in the proposal form. The LIC further claimed that they held indisputable proof to show that the life assured was known to be an alcoholic for 30 years and smoker for 10 years prior to the date of proposals. He however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC. Smt. Munilakshamma, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Bangalore Division I. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 14.10.2003 at Bangalore. Smt. Munilaksh-mamma, the complainant, did not attend the hearing. Smt V.Chintamani, Manager (Claims) LIC, Bangalore Division I represented the LIC.

Observations of Ombudsman:

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

- a) Sec.45 of Insurance Act, 1938 is applicable to both claims. The implication is that the insurer can consider repudiation of claims if there is suppression of material facts relating to consideration of insurance besides fraudulent intention on the part of the life assured.

- b) The evidence submitted by the insurer is in the form of a Discharge Summary issued by Mallaya Hospital, Bangalore under Hospital No.196347 and I.P.No. 67981. The life assured was admitted in the above hospital on 12.06.2001 and discharged on 19.06.2001. The hospital record mentions the history of ailment as "Diabetes Mellitus" since 10 years on OHA. The final diagnosis was "NIDDM VBI-LATERAL MEDULLARY SYNDROME". Under the personal history of the same report it was mentioned that the life assured was a chronic alcoholic for more than 30 years and he was smoking 2 packets of cigarettes per day for about 30 years. These facts are very essential from the point of view of the insurer in evaluation of risk. By suppressing the above facts the insured had indeed committed a breach of utmost good faith, which principle is very essential ingredient of Insurance Contract. The death of the life assured was due to Cardio-pulmonary failure due to Infract (left cerebral).
- c) According to Stedman's Medical Dictionary 27th Edition Page No.491 Diabetes Mellitus is " A Chronic metabolic disorder in which utilization of carbohydrate is impaired and that of liquid and protein enhanced; it is caused by an absolute or relative deficiency of insulin and is characterized, in more severe cases, by chronic hyperglycemia, glycosuria, water and electrolyte loss, ketoacidosis and coma, long- term complications include neuropathy, retinopathy, nephropathy, generalized degenerative changes in large and small blood vessels and increased susceptibility to infection".
- d) The death certificate dated 29.10.01 issued by Sri Vinayaka Clinic, Bangalore mentioned the primary cause of death as "Respiratory Failure". The Secondary cause of death was "Diabetes Mellitus, Infract (left cerebral). In the column relating to other associated diseases, it was mentioned that prolonged uncontrolled diabetes might have prompted death of the life assured. Hence the history of alcoholic habit, Smoking, Diabetes Mellitus were associated causes of death. The life assured ought to have informed the insurer about his diabetes, alcoholic and smoking habit; and by suppressing these facts he committed breach of utmost good faith, which principle is the foundation of insurance contract. Hence the action of the insurer appears justified.
- e) However, the insurer has not submitted any evidence i.e. particulars of treatment taken for the diabetes etc. for the period prior to the treatment for NIDDM in the year 2001. Moreover the life assured survived for approximately 3 and 2 ^{1/2} years from the date of commencement respectively under the above policies. Thus I find that there was no malafide intention on the part of the life assured.
- f) Sec.45 of Insurance Act, 1938 is attracted on facts of the case. The insurer is called upon to establish that the insured not only suppressed material facts but did so with the motive of defrauding the insurer. In this case, all that the insurer did is to point out certain statements in the hospital record relating to treatment after the commencement of the policies. This is not at all sufficient, as very high degree of proof is required to drive home culpability and / or "mens rea" on the part of the deceased life assured.
- g) Since all the ingredients required under Sec. 45 of Insurance Act, 1938 have not been fulfilled by the insurer for repudiating the claim. I feel that the action of the insurer in rejecting the claims in full is not justified.

- h) In view of the above, I am of the view that ends of justice would be adequately met if the insurer accepts the claims for a sum Rs.50,000 in total under both the policies under Ex-gratia.
- i) I therefore direct the insurer to settle the claims for a total sum of Rs.50,000 under both policies Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

Hyderabad I Ombudsman Centre
Case No. L/2017-2003-04
Mrs. T. G. Pramila
Vs.
Life Insurance Corporation of India

Award Dated 31.10.2003

Sri K. S. Jaishankar, working as Asst. Master in Sarvodaya Junior College, Tiptur, Tumkar Dist. took the above policies from Tiptur, Arsikere and Kunegal Branches of Bangalore Division I as per details furnished below.

Policy No.	611542121	721759598	611597005
Date of Proposal	09.06.1999	27.12.1999	28.07.2000
Date of Acceptance/FPR	28.06.1999	31.12.1999	14.10.2000
Sum Assured	50,000	10,000	50,000
Plan & Term	14-15	14-10	14-10
Date of Commencement of risk	28.06.1999	18.12.1999	14.10.2000
Date of Death	19.09.2001	19.09.2001	19.09.2001
Date of Repudiation	10.04.2002	10.04.2002	10.04.2002
Cause of death	Septicaemia with hepatorenal syndrome, Cirrhosis with Portal Hypertension with Heptic encephalopaty		

Sri. K. S. Jaishankar, Asst. Master in Sarvodaya Junior College, Tiptur took the above insurance policies from Bangalore Division of LIC of India. The life assured died on 19.09.2001 The cause of death was reported to be Septicaemia with hepato Renal Syndrome- Alcoholic Liver Disease with hepatic encephalopathy with Cirrhosis with portal hypertension. Smt T.G.Pramila, who is the nominee and complainant under the policies, lodged a claim with the LIC. The LIC repudiated her claim on 10.04.2002 citing the reason that the life assured while proposing for insurance gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that about 3 years before he proposed for the above policies, he was known to be an alcoholic and he

had suffered from alcoholic liver disease. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policies, the claims were repudiated by LIC.

Smt. T.G.Pramila, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Bangalore I Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 14.10.2003 at Bangalore. Sri K.J.Veeresh, son of the complainant, attended the hearing. Smt. V.Chintamani, Manager (Claims) LIC, Bangalore Division I represented the LIC.

Observations of Ombudsman:

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

- i) The life assured took three insurance policies in 6/99, 12/99 and 10/2000 respectively. He died on 19.09.2001 in KMC Hospital, Manipal. The Primary Cause of death was: **“Septicaemia with Hepato Renal Syndrome”** and the Secondary Cause of death was : **“Alcoholic Liver Disease with Hepatic Encephalopathy with Cirrhosis with Portal Hypertension-HB’s Age”**;
- ii) The insurer obtained evidence in the form of Discharge Summary from Hegde Health Complex, Shimoga. According to this, the life assured was admitted there on 23.08.2001 vide IP No.322 and was discharged on 27.08.2001. It was also reported in the hospital record that the life assured was **a known case of cirrhosis of liver under treatment for three years**. Further, the life assured was admitted there with complaints of loss of appetite, general weakness, **alcohol taken since 5 years**. The diagnosis arrived by them was “Cirrhosis of Liver, Hepatic Coma, Hepatitis B Positive”;
- iii) According to the treatment particulars obtained by the insurer in their claim forms B/B1 and discharge summary from KMC Hospital, Manipal, the life assured was admitted there during the periods 27.08.2001 vide IP No.405679 to 07.09.2001 and 14.09.2001 vide IP No.407723 to 19.09.2001, the date of death of the life assured. The symptoms of illness were reported as **“Abdominal Distension-Jaundice”**. The duration of illness was reported as three years. This clearly established the fact that the life assured was not keeping good health at the time of taking the insurance policies;
- iv) During the course of hearing, the complainant and her son contended that the life assured was first admitted in Kamala Nursing Home, Shimoga on 20.10.1998 and took treatment there upto 27.10.1998. The diagnosis arrived was Hepatitis, Haemorrhoids, Upper GIT Bleeding. He was admitted there with complaints of Malaena?-Bleeding P/R-Distention of Abdomen-Confusional State. Even this information was not informed to the insurer by the complainant while submitting the claim forms. This admission and the treatments thereto, relate to the health of the insured prior to taking the insurance policies;
- v) The life assured was under the treatment of Dr.S.B.Hegde only from 10/1998 till he was finally admitted in KMC Hospital, Manipal, where he finally died;
- vi) The life assured was a literate person, working as a teacher since 19 years. The diseases with which he was suffering and the various admissions and

treatments for them were all well within his knowledge and he ought to have disclosed to the insurer while effecting the proposals for insurance;

- vii) Incidentally, the suppression of material fact of his illness Cirrhosis of liver and other associated diseases since three years prior to his admission in KMC Hospital, Manipal has nexus with the cause of death on 19.09.2001;
- viii) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policies from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for cirrhosis of liver and other associated ailments including the fact that he was alcoholic, the insured should have disclosed these material facts while answering the relevant questions in the proposal forms. Therefore, I am of the view that repudiation of the claims by the insurer was right under Sec.45 of the Insurance Act, 1938;
- ix) Therefore, for the reasons as mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claims on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policies is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1019/02-03

Smt. P. Vijaybhaskara Lakshmi

Vs.

Life Insurance Corporation of India

Award Dated 31.10.2003

Sri P.Satyanarayana Reddy, working as Physical Education Lecturer in GBR Degree College, Anaparthi, took a life insurance policy, as per details furnished hereunder:-

Policy No.	:	672161959
Date of Proposal	:	21.03.2000
Date of Acceptance/FPR	:	28.03.2000
Sum Assured	:	1,50,000
Plan & Term	:	122-15
Date of commencement of risk	:	28.03.2000
Date of Death	:	24.09.2001
Date of Repudiation	:	30.03.2002
Policy issued under	:	Medical Scheme
Cause of death	:	Chest Pain

Section 45 of Insurance Act 1938 is applicable under the claim

Sri P.Satyanarayana Reddy, working as Lecturer in Physical Education in GBR Degree College, Anaparthi took the above insurance policy from Ramachandrapuram Branch under Rajahmundry Division. The life assured died on 24.09.2001 suddenly due to heart attack. The life assured had one more policy no.800381105 under Table 133 for a Sum Assured of Rs.63,000 taken by him on

11.01.2000. He, however, did not disclose this policy while taking the insurance policy in question in 3/2000. The LIC paid claim under policy no 800381105 and repudiated claim under the 2nd policy no. 672161959. His wife Smt. P.Vijayabhaskara Lakshmi, who is the nominee under the policy, lodged a claim with the LIC. The claim was repudiated by the LIC on the ground that the deceased life assured, while proposing for insurance in 3/2000, did not disclose the particulars relating to the previous insurance policy no.800381105, which was taken by him in 1/2000. The non-disclosure of the information regarding the previous policy adversely influenced their decision to accept the subsequent proposal. Had the life assured disclosed the material fact relating to earlier insurance, the insurer would have called for ECG and their underwriting decision would have been different depending on the findings of ECG.

Smt. P.Vijaya Bhaskara Lakshmi, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Rajahmundry Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 20.10.2003 at Visakhapatnam. Smt. P.Vijaya Bhaskara Lakshmi, the complainant & nominee did not attend the hearing. However, one Sri P.Balakrishna Reddy, son of the complainant, duly authorised by the complainant attended the hearing. Sri K.B.S.Sastry, A.O. (Claims) LIC, Rajahmundry Division represented the LIC.

Observations of Ombudsman:

I have carefully considered the facts of the case and perused the documents, etc., furnished by the complainant and the insurer and heard their representatives : -

- a) Sec.45 was applicable under the policy as the claim was repudiated after expiry of two years from the date of taking the policy. The implication is that the insurer must fulfil all the three ingredients required under the relevant section for considering repudiation of a claim;
- b) The life assured was working as a Physical Education Lecturer in GBR Degree College, Anaparthi. According to the information furnished by the employer, the insured never availed any leave on sick grounds;
- c) The life assured was medically examined by authorised medical examiner of LIC, who had recommended the life assured to be medically fit for insurance;
- d) It is also not known whether the Agent who secured proposal for insurance from the insured had fully explained about implications of non-disclosure of earlier insurance held by the life assured. The expressions “sum under consideration”, etc. are to be better read and understood by the insurance intermediaries than to be imagined by a layman like the deceased life assured;
- e) Further, the insurer could not produce any proof relating to adverse health condition of the life assured prior to taking the insurance policy. Instead, the insurer chose to repudiate the claim simply on the pretext that the insured did not divulge information relating to his earlier insurance;
- f) I find that all the operations of the insurer were computerized. In spite of such advanced technological developments in the organisation, they have no system to enlist at a stretch the full particulars of a customer;
- g) If the life assured was suffering from any serious disease, the position would have been different and the fact that the insurer had given him a Jeevan Mitra

Triple Cover Insurance Policy in 1/2000 dispelled all such doubts. Incidentally, this claim was also settled by the insurer;

- h) Having regard to the overall circumstances of the case, I hold that the repudiation of the claim by the insurer, especially, when fraudulent intent could not be established by the insurer, is not justified.
- i) I hereby direct the insurer to settle the claim.

Hydrabad Ombudsman Centre
Case No. L-1121/03-04
Smt. Vanapalli Manikyam
Vs.
Life Insurance Corporation of India

Award Dated 31.10.2003

Sri Vanapalli Ramakrishna, Agriculturist, of Nathavaram (Post), Visakhapatnam District took the following policy:-

Policy No.	: 691710502
Date of Proposal	: 31.03.2001
Date of Acceptance/FPR:	28.03.2001
Sum Assured	: 50,000
Plan & Term	: 91-20
Date of Death	: 27.06.2001
Date of Repudiation	: 16.11.2002
Cause of death	: Hepatitis/Jaundice

One Sri Vanapalli Ramakrishna, Agriculturist of Nathavaram (Post), Visakhapatnam District took the above life insurance policy from Narsipatnam Branch under Visakhapatnam Division. The life assured died due to Hepatitis with Jaundice on 27.06.2001. The insured first took treatment in Emanuel Hospital, Kondalaagraharam on 13.01.2001 for Severe Jaundice and as his condition was serious, he was advised to go to Vizag or Kakinada Government General Hospital. Later, the life assured consulted Christian Cancer Centre, Kakinada during the period 13.02.2001 to 01.03.2001 and took treatment. The diagnosis arrived by them was Cancer Rectum with Secondaries in Liver. Before death, he took treatment from Dr.A.Gopal Rao of Narsipatnam for Hepatitis with Jaundice and died. The above admissions and treatments thereto were prior to taking the insurance policy in question. Smt. V.Manikyam, who is the nominee and complainant under the policy, lodged a claim with the LIC for settlement of the claim. But the claim was repudiated by LIC as the life assured deliberately suppressed the above material facts relating to his health while taking the insurance policy.

Smt. Manikyam, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Visakhapatnam Division. Aggrieved with the rejection of the claims, the complainant represented to this office. A personal hearing was arranged on 20.10.2003 at Visakhapatnam. Smt.V.Manikyam, the complainant and nominee under the policy attended the hearing. Smt. A. Vijayalakshmi, Manager (Claims) LIC, Visakhapatnam Division represented the LIC.

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

- a) Late Sri Vanapalli Ramakrishna, Agriculturist and working as a coolie in private company took a Janaraksha Policy for a Sum Assured of Rs.50,000 on 28.03.2001. He died due to Hepatitis with Jaundice on 27.06.2001;
- b) According to the certificate dated 10.04.2002 obtained by the insurer from Emmanuel Hospital, Kondala Agraharam, the insured took treatment in their hospital on 13.01.2001 for Severe Jaundice and as his condition was serious, he was advised to go to Vizag or Kakinada Government General Hospital;
- c) According to the treatment particulars obtained in F.No.5152 of LIC issued by Christian Cancer Centre, Kakinada, the life assured took treatment from them during the period from 13.02.2001 to 01.03.2001. The hospital authorities diagnosed the disease as "Cancer Rectum with Secondaries in Liver". As per the case sheet of Emmanuel Hospital, Kondala Agraharam, the insured was reported to be a patient of Carcinoma Liver;
- d) As per the treatment particulars furnished in Claim Forms B/B1 of LIC issued by Dr.A.Gopal Rao of Narsipatnam, the insured was admitted in his hospital on 29.05.2001. This doctor reported the Primary Cause of death as Hepatitis and Secondary Cause of death as Jaundice;
- e) The suppression of material fact of his illness Hepatitis with Jaundice even before taking the insurance policy had nexus with the cause of his death on 27.06.2001:
- f) In the proposal dtd.31.03.2001 submitted by the insured, he had answered all the relevant questions in the negative though the life assured was fully aware of his admission and treatment for hepatitis/jaundice associated with liver disease before taking the insurance policy;
- g) All the above events when put together chronologically make it absolutely clear that the life assured was suffering from hepatitis/jaundice associated with liver disease even before his taking the policy;
- h) Sec.45 of the Insurance Act 1938 was not applicable under the claim. The admission and treatment thereto by the insured was well within his knowledge and therefore, the life assured ought to have disclosed truthfully to the insurer for evaluating the risk in the right perspective by the insurer. By suppressing the vital information, the insured did not give sufficient opportunity to the insurer and thereby, violated the principle of utmost good faith. Therefore, it is a well- founded inference that the life assured had the intention and purpose to keep this vital information away from the insurer so as to induce the insurer to consider the insurance policy somehow;
- i) In the circumstances of the cases, therefore, the suppression of material facts by the life assured was very clear and the insurer was well within its right in repudiating the claim;
- j) In view of the material evidences produced by the insurer as discussed above, the repudiation of the complainant's claim by the insurer has to be upheld as legal, correct and proper and hence it does not call for interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1006/03-04

Sri. M. Archan

Vs.

Life Insurance Corporation of India

Award Dated 3.11.2003

Sri Achukatla Arogyam, aged 34 years, occupation: Lecturer in Chemistry, A.M.A.L. College, Anakapalli took three insurance policies from Visakhapatnam and Rajahmundry Divisions of LIC of India, as per details furnished below :-

Policy No.	691746799	691746801	800469424
Date of Proposal	30.07.2001	30.07.2001	23.07.2001
Date of Acceptance/FPR	30.07.2001	30.07.2001	28.07.2001
Sum Assured	1,00,000	1,00,000	50,000
Plan & Term	88-24	111-24	93-25
Date of Commencement of risk	28.07.2001	28.07.2001	28.07.2001
Date of Death	27.03.2002	27.03.2002	27.03.2002
Date of Repudiation	13.11.2002	13.11.2002	26.08.2002
Cause of death	Suicide	Suicide	Suicide

One Achukatla Arogyam, lecturer in Chemistry, A.M.A.L. College, Anakapalli took the above life insurance Policies from Anakapalli and Tuni Branches under Visakhapatnam & Rajamundry Divisions of LIC of India. Sri Achukatla Arogyam expired on 27.03.2002. His nephew and nominee Sri Matangi Archan preferred claim with LIC. LIC repudiated the claims for the reason that the life assured committed suicide within on year from the date of commencement of the policies. LIC accepted the policy with "Suicide Clause". According to conditions applicable under Suicide Clause, claim is not payable in case the life assured commits suicide within 1 year from the date of the policy. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 20.10.2003 at Visakhapatnam. The complainant did not attend the hearing. Smt. A.Vijaya Lakshmi, Manager (Claims) LIC, Visakhapatnam and Sri K.B.S.Sastry A.O.(Claims) Rajahmundry Division represented the LIC.

Observations of Ombudsman :

I have gone into the conditions applicable under Suicide Clause, which reads as follows.

- a) The contents of the Suicide clause was "This policy shall be void if the life assured commits suicide (Whether sane or insane at the time) at any time on or after the date on which the risk under the policy has commenced but before the expiry of one year from the date of this policy and the corporation will not entertain any claim by virtue of this policy except, to the extent of a third party's bonafide beneficial interest acquired in the policy for valuable consideration of which notice has been given in writing to the office to which premiums under this policy were paid last, at least one calendar month prior to death".

I agree with the insurer that under the present condition of the policies rightly rejected the claims, invoking suicide clause.

The complaint is dismissed

Hyderabad Ombudsman Centre
Case No. L-1055/03-04
Mrs. Shaik Nima Banu
Vs.
Life Insurance Corporation of India

Award Dated 5.11.2003

Sri Shaik Babu Miya, tailor, Vengala Rao Colony of Paloncha, took a life insurance policy as per details mentioned below :-

Policy No.	:	682219284	
Date of Proposal	:	20.11.2001	
Date of Acceptance/FPR	:	28.11.2001	
Sum Assured	:	50,000	
Plan & Term	:	14-15	
Date of commencement of risk	:	28.11.2001	
Date of Death	:	09.08.2002	
Date of Repudiation	:	31.12.2002	
Cause of death	:	Heart attack, as reported	by the complainant

Sec.45 of the Insurance Act 1938 is not applicable to the claim

One Sri Shaik Baba Miya, occupation-tailor took the above insurance policy from Kothagudem Branch under Warangal Division. The cause of death was reported to be sudden heart attack. Smt. Shaik Nima Begum, who is the nominee and complainant under the policy, lodged a claim with the LIC. Prior to taking the policy, the life assured consulted Dr. V. Ramesh Babu, MS, of Kothagudem as he suffered from Fissure in Ano with Sentinal Pile and took treatment from him. The life assured was also reported to have undergone Splenectomy on 28.07.1996. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

Smt. Shaik Nima Begum, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Warangal Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 06.10.2003 at Hyderabad. Dr. S. M. Arif, the cousin of the complainant, duly authorised by the complainant attended the hearing. Sri K. Mohan Rao, Manager (Claims) LIC, Warangal Division represented the LIC.

Observations of Ombudsman: -

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

- i) The only evidence secured by the insurer is a prescription dated 28:07.1996 rendered by Dr. V. Ramesh Babu, M.S. Veena Nursing Home, Kothagudem. The said prescription mentioned that the deceased life assured was treated by the

above doctor for "Ch. Anal fissure with Excision pile with Splenectomy under SA (sell) on 28.07.96 ".

- ii) The above evidence is not supported by corroborative evidences e.g. dates of consultation, Operating surgeon's report, periods of consultations / pathological reports confirming the life assured to be operated for Splenectomy. Hence the evidence secured by the insurer cannot be considered as concrete evidence warranting repudiation of claim.
- iii) The cause of death was reported to be heart-attack. The Zonal Medical Referee of LIC, Zonal Office, Hyderabad, after examining the prescription opined that there was no nexus between the suppressed material fact (Splenectomy) and the cause of death (Heart Attack).
- iv) Going by insurer's own admission in the claim enquiry report it was observed that the investigating official mentioned that "The claim appears to be genuine and may be settled on merits".

In this context, I hold that the action of the insurer in repudiating the claim is not in order. I, therefore, conclude that the claim should be allowed fully. LIC is directed to settle the claim accordingly.

Hyderabad Ombudsman Centre

Case No. L-1007/03-04

P. Satyanarayana Rao

Vs.

Life Insurance Corporation of India

Award Dated 5.11.2003

Sri Pusuluri Giridhar, doing real estates business, took a life insurance policy, details of which are mentioned below: -

Policy No.	:	800837253
Date of Proposal	:	25.12.1998
Date of Acceptance/FPR	:	28.12.1998
Sum Assured	:	50,000
Plan & Term	:	93-25
Date of Revival	:	26.02.2002
Date of Death	:	30.03.2002
Date of Repudiation	:	13.11.2002
Cause of death	:	Mild Hypertension and general Nervous debility

Section 45 of Insurance Act 1938 is applicable under the claim

The life assured late Sri P.Giridhar, doing real estates business, took the above policy from Rajahmundry (Rural) Branch under Rajahmundry Division, of LIC of India as per the details furnished. The policy was revived on 26.02.2002 by the life assured by submitting a declaration of good health form and paying the arrears of premia. The insured died on 30.03.2002 due to mild hypertension and general nervous debility. The total duration of the claim was 3 years and 3 months and the duration from revival was 1 month & 4 days. The claim under the policy was repudiated by LIC on the grounds of suppression of material facts, as the life

assured did not disclose his treatment for hypertension prior to revival of the insurance policy. It was also alleged that the life assured was suffering from hypertension and general nervous debility since 15.09.2001. Sri P.Sathyanarayana Rao, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Rajahmundry Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 20.10.2003 at Visakhapatnam. Sri P.Sathyanarayana Rao, the complainant himself attended the hearing. Sri K.B.S.Sastry, A.O.(Claims) LIC, Rajahmundry Division represented the LIC.

Observations of Ombudsman:

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

- a) Section 45 of Insurance Act 1938 is applicable under the claims. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- b) In support of the repudiation, the insurer obtained only F.No.5152 and Claims forms B/BI duly completed by Dr. Syed Ahamed of Rajahmundry. Though it was reported that the life assured consulted the doctor on 15.09.2001 and took treatment from the doctor since 6 months, the insurer could not obtain any corroborative evidence for the treatments the life assured had from this doctor. In fact, they must have obtained complete and full particulars of the treatments like prescriptions indicating the medicines used by the insured, the relevant case sheets, details of reports relating to pathological tests, etc. so as to sustain their repudiation action;
- c) It is very much pertinent to mention here that the doctor who had furnished the above forms reported that the life assured was given treatment only as an out patient and not as in patient. Further, the insurer could not obtain even the BP recordings recorded by the doctor, especially when the insurer relied on the claim forms furnished by the doctor in support of their repudiation action;
- d) The investigating official of LIC who had investigated the claim had also reported that no records were maintained by the doctor;
- e) In the absence of any supportive/concrete evidence to the effect that the life assured took treatment for hypertension prior to revival of the policy, and as the insurer also could not establish fraudulent intent on the part of the life assured to defraud LIC, the repudiation action of the insurer is not justified.
- f) I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. L-1129/03-04
Smt. Manduri Parvathi
Vs.

Life Insurance Corporation of India

Award Dated 6.11.2003

Sri M.Eswara Rao, working as Supervisor in K.R & Sons Visakhapatnam, took a life insurance policy, as per details furnished hereunder :-

Policy No.	: 691877562
Date of Proposal	: 16.03.2002
Date of Acceptance/FPR	: 28.03.2002
Sum Assured	: 2,00,000
Plan & Term	: 150-20
Date of commencement of risk	: 28.03.2002
Date of Death	: 21.05.2002
Date of Repudiation	: 31.03.2003
Cause of death	: Cardiac Arrest, Cirrhosis of liver

Sri M. Eswar Rao, working as Supervisor in K.R& Sons, Visakhapatnam, took the above insurance policy from Visakhapatnam City Branch II under Visakhapatnam Division. The life assured died on 21.05.2002 due to cardio-respiratory arrest with cirrhosis of liver. The life assured had one more policy no.691744011 under Table 14 for a Sum Assured of Rs.75,000 taken by him from Career Agents Branch under Visakhapatnam on 24.03.2002. He, however, did not disclose this policy while taking the insurance policy in question in 3/2002. The LIC paid claim under policy no 691744011 and repudiated claim under the 2nd policy no. 691877562. His wife Smt. M. Parvathi, who is the nominee under the policy, lodged a claim with the LIC. The claim was repudiated by the LIC on the ground that the deceased life assured, while proposing for insurance in 3/2002, did not disclose the particulars relating to the previous insurance policy no.691744011, which was taken by him in 3/2002 from Career Agents Branch of Visakhapatnam. Division of LIC of India. The non-disclosure of the information regarding the previous policy adversely influenced their decision to accept the subsequent proposal. Had the life assured disclosed the material fact relating to earlier insurance, the insurer would have called for ECG and their underwriting decision would have been different depending on the findings of ECG.

Smt. M. Parvathi, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Visakhapatnam Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 20.10.2003 at Visakhapatnam. Smt. M.Parvathi, wife and nominee of the deceased life assured assisted by her brother-in-law Sri M.Appa Rao attended the hearing. Smt. A.Vijayalakshmi, Manager (Claims) LIC, Visakhapatnam Division represented the LIC.

Observations of Ombudsman:

I have carefully considered the facts of the case and perused the documents, etc., furnished by the complainant and the insurer and heard their representatives: -

- i) Sec.45 is not applicable under the policy as the claim was repudiated within two years from the date of taking the policy. The implication is that the insurer can repudiate the claim on the basis of suppression of material facts;
- ii) The life assured was working as a supervisor in K. Ramabrahmam & Sons Pvt. Ltd., Visakhapatnam. According to the information furnished by the employer,

the insured never availed any leave on sick grounds between the period 28.03.1999 to 21.05.2002 i.e. the date of death;

- iii) The life assured was medically examined by authorised medical examiner of LIC, who had recommended the life assured to be medically fit for insurance;
- iv) It is also not known whether the Agents who secured proposal for insurance from the insured had fully explained about implications of non-disclosure of earlier insurance held by the life assured. The implication of “non-disclosure of previous policy particulars”, etc. are to be better read and understood by the insurance intermediaries than to be imagined by a layman like the deceased life assured;
- v) Further, the insurer could not produce any proof relating to adverse health condition of the life assured prior to taking the insurance policy. Instead, the insurer chose to repudiate the claim simply on the pretext that the insured did not divulge information relating to his earlier insurance;
- vi) I find that all the operations of the insurer were computerized. In spite of such advanced technological developments in the organisation, they have no system to enlist at a stretch the full particulars of a customer;
- vii) If the life assured was suffering from any serious disease, the position would have been different. Incidentally, claim under other policy no. 691744011 for Rs.75,000 was also settled by the insurer;
- viii) Having regard to the overall circumstances of the case, I hold that the repudiation of the claim by the insurer is not justified. Ends of justice are adequately met if the insurer accepts the claim for Rs.1,00,000 as Ex-gratia.
- ix) I therefore, direct the insurer to settle the claims for a total sum of Rs.1,00,000 under the policy Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

Hyderabad Ombudsman Centre

Case No. L-1081/03-04

Smt. A. Munemma

Vs.

Life Insurance Corporation of India

Award Dated 10.11.2003

Sri Anthati Ramakrishnaiah, agriculturist of Mittakandriga Village, Panagal (Post) under Chittoor District, took the following policy:-

Policy No.	: 841122241
Date of Proposal	: 16.02.2002
Date of Acceptance/FPR	: 19.02.2002
Sum Assured	: 30,000
Plan & Term	: 14-18
Date of Death	: 15.09.2002
Date of Repudiation	: 25.02.2003
Cause of death	: Chest Pain

One Sri Anthati Ramakrishnaiah, agriculturist, Mittakandriga (Village), Panagal (Post) under Chittoor District, took the above life insurance policy from Srikalahasti Branch under Nellore Division. The life assured died due to chest pain on 15.09.2002. The insured was first admitted in Sri Venkateswara Institute of Medical

Sciences (SVIMS), Tirupati during the periods 03.03.2000 to 07.03.2000 and 14.03.2001 to 17.03.2001 and was later treated there as out-patient on 17.03.2000, 06.04.2000 and 07.11.2001. The hospital authorities diagnosed the disease as "COPD, Corpulmonale, Type-II Respiratory Failure- HTN". It was also reported by the hospital authorities that the life assured was a known Hypertension, Chronic Heavy Smoker, Regular Alcoholic Ingestion and was under treatment at their hospital since 03.03.2000. All these admissions and treatments were prior to taking the insurance policy in question. The insured was also admitted in SVIMS Hospital, Tirupati before death on 29.07.2002 and discharged on 01.08.2002, after taking the treatment. Smt. A.Munemma, who is the nominee and complainant under the policy, lodged a claim with the LIC for settlement of the claim.

Observations of Ombudsman :-

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

- i) Late Sri Anthati Ramakrishnaiah, agriculturist of Mittakandriga Village, Panagal (Post), Srikalahasthi Taluk under Chittoor District took an Endowment Policy for a Sum Assured of Rs.30,000 on 16.02.2002. He died due to Chest Pain on 15.09.2002;
- ii) Since it was a very early claim, the insurer arranged for investigation of the claim, as per the rules governing the early claims;
- iii) According to the treatment particulars obtained by the insurer from Sri Venkateswara Institute of Medical Sciences (SVIMS), Tirupati in the claim forms B/BI, the insured was admitted there as in patient and took treatment during the periods 03. 03.2000 to 07.03.2000, 14.03.2001 to 17.03.2001 and as out patient on 17.03.2000, 06.04.2000 and 07.11.2001. The hospital authorities diagnosed the disease as "Chronic Obstructive Pulmonary Disease, Corpulmonale, Type-II Respiratory Failure & Hypertension". It was also reported by the hospital authorities that the life assured was a known HTN, Chronic Heavy Smoker, Regular Alcoholic Ingestion and was on treatment at their hospital since 03.03.2000. All the above admissions and treatments thereto were all prior to taking the insurance policy and well within the knowledge of the life assured;
- iv) According to Mosby's Medical Dictionary 2003 (Page No.291), the significance of Cor pulmonale is: "an abnormal cardiac condition characterized by hypertrophy of the right ventricle of the heart as a result of hypertension of the pulmonary circulation". Similarly, the implication of COPD as per Mosby's Medical Dictionary 2003 (Page No.242) is "Progressive and Irreversible condition characterized by diminished inspiratory and expiratory capacity of the lungs". Incidentally, the suppression of material fact of his illness had nexus with the cause of his death on 15.09.2002;
- v) In the proposal dtd.16.02.2002 submitted by the insured, he had answered all the relevant questions in the negative though the life assured was fully aware of his admission and treatment in SVIMS Hospital, Tirupati before taking the insurance policy;
- vi) All the above events when put together chronologically make it absolutely clear that the life assured was suffering from COPD and associated diseases even before his taking the policy;

- vii) Sec.45 of the Insurance Act 1938 was not applicable under the claim. The admission and treatment thereto by the insured was well within his knowledge and therefore, the life assured ought to have disclosed truthfully to the insurer for evaluating the risk in the right perspective by the insurer. By suppressing the vital information, the insured did not give sufficient opportunity to the insurer and thereby, violated the principle of utmost good faith. Therefore, it is a well- founded inference that the life assured had the intention and purpose to keep this vital information away from the insurer so as to induce the insurer to consider the insurance policy somehow;
- viii) In the circumstances of the cases, therefore, the suppression of material facts by the life assured was very clear and the insurer was well within its right in repudiating the claim;
- ix) In view of the material evidences produced by the insurer as discussed above, the repudiation of the complainant's claim by the insurer has to be upheld as legal, correct and proper and hence it does not call for interference at my hands.
- The complainant is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1090/03-04

Smt. L. Govindamma

Vs.

Life Insurance Corporation of India

Award Dated 10.11.2003

Sri L.Venugopal, working as Line Inspector, APSPDC Ltd., Chittoor, took the following policy:-

Policy No.	:	841959535		
Date of Proposal	:	25.08.2001		
Date of Acceptance/FPR	:	04.09.2001		
Sum Assured	:	50,000		
Plan & Term	:	14-10		
Date of Death	:	08.04.2002		
Date of Repudiation	:	18.02.2003		
Cause of death	:	Stomach Pain,		according
		to the complainant		

BACKGROUND

One Sri L.Venugopal, working as Line Inspector, APSPDC Ltd., Chittoor took the above life insurance policy from Tirupati Branch under Nellore Division. The life assured died on 08.04.2002. The cause of death was reported as stomach pain by the complainant. The life assured was first admitted in Vijaya Hospital, Chennai on 25.06.2001 vide I.P.No.5518 and took treatment in the hospital, upto 08.07.2001. According to the hospital records obtained and submitted by the insurer, the life assured had Leparotomy, Sigmoid Colectomy and End-End Anastomosis on 27.06.2001 under GA The hospital authorities diagnosed the disease as "Ca.Sigmoid Colon with Secondaries in Lymph Nodes". This admission and treatment was prior to taking the insurance policy in question. Smt. L.Govindamma, who is the nominee and complainant under the policy, lodged a claim with the LIC for settlement of the claim.

OBSERVATIONS & DECISION:-

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

- i) Late Sri L.Venugopal, working as Line Inspector in APSPDC Ltd., Chittoor took an Endowment Assurance Policy for a Sum Assured of Rs.50,000 on 04.09.2001. He died on 08.04.2002;
- ii) According to the treatment particulars (Case Sheet) obtained by the insurer from Vijaya Hospital, Chennai, the insured was admitted there on 25.06.2001 vide IP No. 5518 and took treatment in the hospital upto 08.07.2001. The hospital authorities diagnosed the disease as “**Ca.Sigmoid Colon with Secondaries in Lymph Nodes**”. It was also reported in the case sheet that the life assured had “**Laparotomy, Sigmoid Colectomy and End - End Anastomosis on 27.06.2001 under GA**”;
- iii) The above admission and the relative treatment thereto was prior to taking insurance policy by the life assured;
- iv) According to the information furnished by the employer of the life assured in the Claim Form E of LIC, the life assured availed medical leave during the periods 02.05.2001 to 15.06.2001 (45 days) and 16.06.2001 to 08.07.2001 (23 days). Incidentally, this was also prior to taking the insurance policy;
- v) In the proposal dtd.25.08.2001 submitted by the insured, he had answered all the relevant questions in the negative though the life assured was fully aware of his admission and treatment in Vijaya Hospital, Chennai, for cancer before taking the insurance policy;
- vi) All the above events when put together chronologically make it absolutely clear that the life assured was suffering from cancer disease even before his taking the policy;
- vii) Sec.45 of the Insurance Act 1938 was not applicable under the claim. The admission and treatment thereto by the insured was well within his knowledge and therefore, the life assured ought to have disclosed truthfully to the insurer for evaluating the risk in the right perspective by the insurer. By suppressing the vital information, the insured did not give sufficient opportunity to the insurer and thereby, violated the principle of **utmost good faith**. Therefore, it is a well- founded inference that the life assured had the intention and purpose to keep this vital information away from the insurer so as to induce the insurer to consider the insurance policy somehow.

In the circumstances of the case, therefore, the suppression of material facts by the life assured was very clear and the insurer was well within its right in repudiating the claim;

In view of the material evidences produced by the insurer as discussed above, the repudiation of the complainant's claim by the insurer has to be upheld as legal, correct and proper and hence it does not call for interference at my hands. The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1116/03-04

Smt. G. Sunitha Kumari

Vs.

Life Insurance Corporation of India

Award Dated 12.11.2003

Sri Gontu Krishna Reddy, working as Police Constable in APSP Battalion, took the following policy :-

Policy No. : 841985534
Date of Proposal : 29.03.2001
Date of Acceptance/FPR : 31.03.2001
Sum Assured : 1,00,000
Plan & Term : 88-25
Date of Death : 02.05.2001
Date of Repudiation : 31.12.2002
Cause of death : Accidental Death

Background

One Sri G.Krishna Reddy, working as Police Constable in Andhra Pradesh State Police Battallion, took the above Jeevan Mitra Double Cover policy from Cuddapah Division. The policy also covered risk of Accident Benefit. The life assured died on 02.05.2001. The cause of death was reported as Accident. LIC settled the claim for Basic Sum Assured together with Additional Sum Assured, as per policy conditions. According to the Police Reports viz. FIR, PMR and Inquest Report, the death of the life assured was due to his own negligent, rash driving of the numberless motor vehicle (Hero Honda) and as a result of this, he hit a stationary tractor with No.AP 21D 243, which was stationed to the left side of the road. The life assured died instantaneously. Further, the policy conditions specifically excluded payment of accidental benefit if the life assured had committed any breach of law. Concluding that the accidental death of the life assured constituted breach of law, LIC repudiated/rejected the accidental claim.

OBSERVATIONS & DECISION :

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

- i) Late Sri Gontu Krishna Reddy, Police Constable No.774 of Andhra Pradesh State Police Battallion, took a Jeevan Mitra Double Cover Policy for a Sum Assured of Rs.1,00,000 on 31.03.2001. This policy also covered the risk of Accident Benefit, in case the cause of death was established as accident. The life insured died on 02.05.2001 and LIC settled the claim for Basic Sum Assured and Additional Sum Assured, as per the terms and conditions governing Jeevan Mitra Double Cover Policy. But the insurer rejected/repudiated the claim for accident benefit;
- ii) The insurer in support of his repudiation/rejection of accidental claim, relied upon the Police Reports Viz. First Information Report (FIR), Post Mortem Report (PMR), Police Inquest Report (PIR) and Final Report of the Police by S.I. of Police, Giddalur P.S. According to these reports, the accident occurred due to the rash, negligent driving of the numberless Motor Vehicle (Hero Honda) by the life assured himself. In view of such driving, the life assured hit a stationed tractor no. AP 21 D 243, sustained multiple injuries and died instantaneously. The SI of Police, Giddalur submitted his report as per the directions of the court;

- iii) According to the first (original) FIR lodged to police, the complainant (wife of the deceased life assured), reported that the accident occurred only due to the rash and negligent driving of the driver of the tractor which dashed against the rotor cycle driven by the life assured, resulting in the death of the life assured. The complainant also submitted during the course of the hearing that she did so as per the advise of the village elders to avoid complications. The complainant had also filed a suit before the First Class Judicial Magistrate, Giddalur reporting that the real culprit was the driver of the tractor and not her husband (life assured). The judgement in this case is expected shortly;
- iv) The complainant also did not submit driving licence of the insured, which is very essential for any person 'to drive a vehicle. But for reasons best known to the insurer, this aspect was not taken into consideration by them;
- v) The insurer repudiated/rejected the claim for accident benefit based on the police reports alleging that the life assured committed breach of law by driving the numberless motor vehicle in a rash and negligent manner;
- vi) According to clause 10.2 (b) (iv) of the policy conditions relating to Accident Benefit, the Corporation shall not be liable to pay the accident benefit, "**if the death of the life assured shall result from the Assured committing any Breach of Law**". As per the available police reports, the life assured committed breach of law and therefore, the insurer repudiated/rejected the accident benefit;
- vii) The complainant had already filed a suit before the First Class Judicial Magistrate, Giddalur pleading that her husband was not guilty of any offence and the real accused was the driver of the tractor. The judgement is also expected shortly, according to the submissions of the complainant. The question relating to decision on breach of law has now become sub-judice.

In the circumstances of the case, I direct the insurer to settle the claim for accident benefit on receipt of the verdict of the court after satisfying themselves that the life assured had not committed any breach of law, having regard to the judgement. If other wise, the said benefit is not payable under the claim.

The complaint is accordingly closed.

Hyderabad Ombudsman Centre

Case No. L-1002/03-04

Smt. J. Indira Devi

Vs.

Life Insurance Corporation of India

Award Dated 14.11.2003

Sri M.Giri Prasad, 1st B.A. Student, by profession took a life insurance policy as per details mentioned below: -

Policy No. : 841045202
Date of Proposal : 14.11.2001
Date of Acceptance/FPR : 16.11.2001
Sum Assured : 20,000
Plan & Term : 14-10
Date of commencement
of risk : 28.10.2001

Date of Death : 09.12.2001
Date of Repudiation : 31.03.2002
Cause of death : cardio respiratory failure
secondary to pulmonary
tuberculosis with pleural
effusion.

FACTS OF THE CASE

One Sri M.Giri Prasad, 1st year Degree Student at Piler, Chittoor District, took the above insurance policy from Piler Branch under Nellore Division of LIC of India. The life assured Nagappa died on 09.12.2001 within 23 days of executing the proposal for insurance due to cardio respiratory failure secondary to pulmonary tuberculosis with pleural effusion. His mother and nominee Smt. J.Indira Devi lodged claim with the LIC. The claim was repudiated by the LIC on the ground that the deceased life assured, while proposing for insurance under the above policy did not disclose the material facts relating to his health, as he suffered from pulmonary tuberculosis and breathlessness for which he consulted doctor and took treatment, which was 3 months prior to date of taking of the policy.

Smt. J. Indira Devi, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Nellore. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 07.11.2003 at Cuddapah. Smt. J. Indira Devi complainant and her husband Sri. M Ramamurthy Raju, father of the deceased life assured, attended the hearing. Sri T.E.Reddy, A.O (Claims) LIC, Nellore Division represented the LIC.

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

- a) Section 45 of the Insurance Act 1938 is not applicable to the policy;
- b) The evidence secured by the insurer is a certificate issued by Civil Assistant Surgeon, Community Health Centre, Piler. The said evidence mentioned "Mr. M.Giri Prasad S/o M. Rama Moorthy Raju was admitted in this hospital on 09.12.2001 with provisional diagnosis of Pulmonary Tuberculosis with pleural effusion and expired on same day".
- c) The other evidence secured by the insurer is in the form of statement from Dr. P.Chandrasekhar, Civil Assistant Surgeon, Community Health Centre, Piler in F.No. B and BI. According to these two statements the life assured was suffering from fever and breathlessness for 3 months as on the date of admission into the hospital i.e. on 09.12.2001.
- d) The above evidence was not supported by corroborative evidences e.g. dates of consultation, periods of consultation, admission/hospital numbers and hence the evidence secured by the insurer cannot be considered as concrete evidence warranting repudiation of claim;

In view of the above facts, I consider that the action of the insurer in repudiating the claim is not justified and I direct them to settle the claim.

Hyderabad Ombudsman Centre
Case No. L-1080/03-04
Smt. R. Shakuntala
Vs.

Life Insurance Corporation of India

Award Dated 17.11.2003

Sri R.Ramulu, working as Trammer in Singareni Collieries Co.Ltd, Ramagundam took an insurance policy the details of which is mentioned below:

Policy No.	:	683122138
Date of Proposal	.	14.03.2001
Date of Acceptance/FPR	:	14.03.2001
Date of commencement	:	01.04.2000
		(Policy dated back)
Sum Assured	:	1,00,000
Plan & Term	:	14-6
Date of Death	:	11.06.2002
Date of Repudiation	.	31.10.2002

BACKGROUND

One Sri R.Ramulu, working as Trammer in Singareni Collieries Co.Ltd, took the above insurance policy from Ramagundam Branch under Karimnagar Division. The life assured died due to cancer of liver. When the claim was made by Smt. R.Shakuntala, the LIC repudiated the claim on the grounds of suppression of material facts, as the life assured did not disclose his treatment for cancer of stomach with Metastasis for which he consulted a medical man and had taken treatment from him in a hospital. Further it was alleged that the life assured had the knowledge of the treatment yet he gave incorrect and false answers to the relevant questions in the proposal form at the time of taking the insurance. Smt. R.Shakuntala, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Karimnagar Division. Aggrieved with the rejection of the claims, the complainant represented to this office. A personal hearing was arranged on 06.10.2003 at Hyderabad. Sri R. Kishan, HGA, LIC of India, Ramagundam Branch, son of the complainant duly authorised by the complainant attended the hearing. Sri A. Panduranga Rao, Manager (Claims) LIC, Karimnagar Division represented the LIC.

OBSERVATION & DECISION:

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

- a) Sec.45 of Insurance Act, 1938 is not applicable to the claim. The implication is that the insurer reserves the right to repudiate a claim if there is any untrue averment in the proposal for insurance submitted by the life assured to the L.I.C.
- b) In the present complaint under consideration, I observe that the letter for repudiation of claim contained the statement "we may however, state that all these answers were false as we hold indisputable proof to; show that prior to the proposal, the life assured had suffered from cancer of stomach with Metastasis for which he had consulted a medical man and had taken treatment from him in a hospital. He did not however, disclose these facts in his proposal, instead he gave false answers therein as stated above." I observe the above statement was a mere allegation founded on some presumptions but not with any concrete evidence.

- c) The life assured first consulted Dr. N. Bheerappa, Associate Professor, Dept of Surgical Gastroenterology, NIIMS, Hyderabad on 23.06.2001. The doctor in his report mentioned that the life assured was suffering from Dyspepsia of 3 years duration. The nature of the disease as diagnosed by the doctor "Malignant Gastro intestinal pacemaker cell tumor stomach 15 days- prior to admission. The proposal was executed on 14.03.2001. This goes to establish that the life assured was suffering from "Dyspepsia' as on 14.03.2001. However, it was not established whether it was in his knowledge.
- d) There has been inconsistency in the stand of the insurer regarding the suppressed material facts. The insurer, in their claim repudiation letter alleged that the life assured suffered from cancer of stomach with Metastasis as on the date of executing the proposal, however, the fact was that the life assured was suffering from "dyspepsia" as on the date of executing the proposal. The date of onset of cancer of stomach was not established. According to Teber's Cyclopedic Medical Dictionary 18th edition at page no. 588 dyspepsia is "imperfect or painful digestion; not a disease in itself but symptomatic of other diseases or disorders. It is marked by vague abdominal discomfort, a sense of fullness after eating, eructation, heartburn, nausea and vomiting, and loss of appetite. These symptoms may occur irregularly and in different patterns from time to time. These symptoms are increased in times of stress" It is now observed that dyspepsia in itself is not a disease.
- e) The life assured executed the proposal on 14.03.2001 and requested the insurer to allow dating back of the policy to 01.04.2000 i.e. the risk under the policy commenced from a back date viz., 01.04.2000. This means that the life assured paid premium to the insurer for the expired period of risk. Had there been any intention of defrauding the insurer, the life assured would not have taken the policy for short term of 6 years besides asking for dating back the commencement of risk. The life assured paid approximately Rs.42,000 for the policy of Rs.1,00,000.
- f) Going by the above observations, I am of the opinion that the action of the insurer in rejecting the claim is not in order and hence I direct the insurer to honour the claim for the policy amount.
- g) I therefore, direct the insurer to settle the claim for the insured amount.

Hyderabad Ombudsman Centre

Case No. L-1049/03-04

Sri T. Hari

Vs.

Life Insurance Corporation of India

Award Dated 19.11.2003

Smt G Ramanjulamma, Proprietor, Dry Cleaning Shop at Kadiri, Anatapur District, took the following policy: -

Policy No. : 652052727
Date of Proposal : 27.12.1999
Date of Acceptance/FPR : 28.12.1999
Sum Assured : 50,000
Plan & Term : 14-15

Date of Death : 10.05.2000
Date of Repudiation : 20.10.2001
Cause of death : Cardio respiratory failure

One Smt. G. Ramanjulamma, Proprietor, Dry Cleaning Shop at Kadiri, Anantapur District, took the above life insurance policy from Kadiri Branch under Cuddapah Division. The life assured died on 10.05.2000. The cause of death was reported as Cardio respiratory failure. The nominees under the policies were minors and the husband of the life assured also died. Hence Sri T. Hari, natural guardian of the minor nominees and complainant under the policy, lodged a claim with the LIC for settlement of the claim. But the claim was repudiated by LIC on the ground that the life assured deliberately suppressed the material facts relating to her health while taking the insurance policy.

Sri T. Hari, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Cuddapah Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 07.11.2003 at Cuddapah. Sri T. Hari, the complainant and natural guardian for the minor nominees under the policy attended the hearing. Sri J. Venugopal, Manager (Claims) LIC, Cuddapah Division represented the LIC.

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

- a) The life assured took an endowment policy on 27.12.1999 for Rs. 50,000. She died on 10.05.2000 within six months of taking the policy. The cause, of death was reported as cardio respiratory failure
- b) The insurer rejected the claim on the ground that the life assured suppressed vital material information relating to hysterectomy operation, which she had undergone prior to taking the policy in the year 1998.
- c) In support of their decision the insurer secured hospital treatment record from A.P.V.V Parishad, Area Hospital, Kadiri under admission record no.2663.
- d) According to the hospital records of A.P.V.V Parishad Hospital, Kadiri, the insured was reported to have been admitted there on 07.10.1998 vide Regd.No.2663. The insurer stated that the life assured underwent hysterectomy operation in the hospital on 07.10.1998. However, from the material placed before me it is not established as to when exactly the operation was performed. Against the column "Date of operation/Delivery it is observed that the hospital authorities made a noting " TAH". This confirms that the life assured was treated for "total abdominal hysterectomy". The evidence submitted by the insurer does not provide any information other than the date of admission.
- e) After taking the policy in the year 1999 the life assured was diagnosed to have suffered form cancer of esophagus and lungs vide certificate issued by Cancer Institute dated 01.05.2000. The life assured was treated at A.P.V.V Area hospital, Kadiri during her terminal illness on 09.05.2000 and died in the same hospital on 10.05.2000 due to cardio respiratory failure.
- f) The insurer repudiated the claim since the life assured suppressed material facts relating to hysterectomy operation. The cause of death was cardio respiratory failure. The admission and treatment for lung cancer and the diagnosis for the same were all after taking the insurance policy. According the

underwriting norms, policies are not denied to lady lives who undergo hysterectomy operation. In the instant case the operation was done in 10/1998 and the policy was taken in 12/1999, after a period of 1 year. The insured was also medically examined by authorised medical examiner of LIC who also found life assured to fit for insurance. Incidentally, I do not find any nexus between the material suppressed and the cause of death;

- g) In view of the above facts, the total repudiation of the claim by the insurer is not justified.. Taking into account the socio economic status and rural background of the family, I feel that ends of justice would be adequately met if the insurer accepts the claim for Rs.10,000 (Rs. Ten thousand only).

I therefore, direct the insurer to settle the claim for Rs.10,000 as Ex-gratia according rule 18 of R.P.G rules 1998.

Hyderabad Ombudsman Centre

Case No. L-1039/03-04

Smt. B. V. Narayana Rao

Vs.

Life Insurance Corporation of India

Award Dated 27.11.2003

Sri B.Praveen Kumar, S/o Sri B. V. Narayana Rao, a resident of Vijayanagar Colony, Hyderabad took a life insurance policy from City Branch-III of LIC of India under Hyderabad Division, as per details furnished below:-

Policy No. : 644765225
Date of Proposal : 31.03.2000
Date of Acceptance/FPR : 28.03.2000
Date of commencement : 28.03.2000
Sum Assured : 1,00,000
Plan & Term : 14-30
Date of Death : 04.11.2001
Date of Repudiation : 15.04.2002

FACTS OF THE CASE

Sri B.Praveen Kumar, S/o Sri B. V. Narayana Rao, a resident of Vijayanagar Colony, Hyderabad took a life insurance policy from City Branch-III of LIC of India, under Hyderabad Division. The life assured was a student of Intermediate Course. The life assured died on 04.11.2001. The cause of death was reported to be Cardio-respiratory arrest secondary to Sickle Cell crisis and hemolysis. Sri B. V. Narayana Rao, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 15.04.2002 citing the reason that the life assured while proposing for insurance gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 4 months before he proposed for the above policy, he had suffered from 'Sickle Cell Anemia' disease and took treatment for the same in Medical Hospital, Hyderabad. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

OBSERVATIONS & DECISION:-

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

- i) Sri B. V. Narayana Rao, father of the life assured took an Endowment Policy on the life of his son late Sri B. Praveenkumar on 31.03.2000 for a Sum Assured of Rs.2,00,000. The life assured was a student, studying Intermediate Course. The life assured died on 04.11.2001 in Medical Hospital, Hyderabad. The cause of death as reported by the hospital authorities was **“Cardio-respiratory arrest secondary to Sickle Cell Crisis and Hemolysis”**;
- ii) According to the treatment particulars obtained by the insurer in their claim forms B/B 1 from the Medical Hospital, Hyderabad, the life assured was first admitted there on 04.12.1999 vide IP No.29195/99 and was discharged on 14.12.1999. The diagnosis arrived by them was **“Sickle Cell Anemia”**;
- iii) The life assured was once again admitted in the same hospital just before death on 03.11.2001 vide IP No.46110/2001 and died there on 04.11.2001. The diagnosis arrived by the hospital authorities was **“Sickle Cell Crisis and Hemolysis”**. It was also reported by the hospital authorities that the life assured was reported to be a known case of **“Sickle Cell Anaemia”** and suffering from the disease **since 1999 - Congenital Disorder**;
- iv) The above admission and treatment thereto by the life assured was prior to taking the insurance policy;
- v) The contention of the complainant that the life assured signed the proposal on dotted lines and they only paid the premium amount to the Agent could not be accepted as the proposer and life assured were literate persons. The disease with which he was suffering and the admissions and treatments for the same were all well within his knowledge especially, these occurred under four months before the date of proposal and he ought to have disclosed to the insurer while effecting the proposal for insurance;
- vi) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer. Though the insured had been suffering from Sickle Cell Anaemia, a congenital disorder, as reported by the hospital authorities before taking the insurance policy, the insured suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;
- vii) Incidentally, the suppression of material fact of his illness Sickle Cell Anaemia from which the life assured suffered and took treatment prior to taking the insurance policy has nexus with the cause of death on 04.11.2001;
- viii) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Sickle Cell Anaemia prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claims by the insurer was right under Sec.45 of the Insurance Act, 1938;
- ix) Therefore, for the reasons as mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the

repudiation of the claims on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. L-1107/03-04
Smt. C. Bhagyamma
Vs.
Life Insurance Corporation of India

Award Dated 17.12.2003

Sri Chandu Sessaiah, agriculturist & tractor driver, resident of Burripalem village of Guntur District, took a Money Back Policy, details of which is mentioned below: -

Policy No.	: 672535816
Date of Proposal	: 31.03.2000
Date of Acceptance/ FPR	: 31.03.2000
Plan & Term	: 75-20
Date of commencement of risk	: 28.03.2000
Date of Revival	: 08.05.2000
Date of Death	: 07.12.2002
Date of Repudiation	: 19.03.2003
Cause of death	: Not Known as per claim form A

FACTS OF THE CASE

One Sri C. Sessaiah, agriculturist and tractor driver, Buvripalem village Guntur District, took the above insurance policy from Tenali Branch of LIC, under Machilipatnam Division. The policy was taken under money back plan and later, due to non-payment of premium the policy lapsed. In order to get the benefit of insurance the life assured got the same revived on 08.05.2002 by submitting the requirement as called for by the insurer. Later the life assured died on 07.12.2002. When the claim was preferred by the nominee, LIC of India, Secunderabad, repudiated the claim on the ground that the deceased suppressed the fact that he took treatment for HIV+ before the date of revival of policy i.e. during the period from 19.08.2000 to 28.08.2000, 17.12.2001 to 26.12.2001 and again from 26.01.2002 to 18.02.2002 and also from 14.03.2002 to 22.03.2002 at Government Hospital, Tambaram, Chennai. Smt. C. Bhagyamma, complainant and nominee under the policy represented in vain to Zonal Office. Claims Review Committee, Hyderabad. Aggrieved with the rejection of the claim, the complainant represented to this office: A personal hearing was arranged on 16.12.2003 at Guntur. Smt. C. Bhagyamma, wife and complainant along with Sri Sundararama Sarma neighbour of the deceased life assured attended the hearing. Smt. Ch. Vijayalakshmi, A.O (Claims) LIC, Machilipatnam Division represented LIC.

DECISION:

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

- i) Sec.45 of the Insurance Act, 1938 is applicable under the policy:
- ii) The Life Assured Viz., late Shri Chandu Sessaiah revived policy on 08.05.2002 by paying the premium and by submitting a Declaration of Good Health form

dated 30.04.2002. The evidence culled out by the Insurer clearly shows that the life assured underwent treatment for HIV+ at the Government Hospital, Tambaram, Chennai during different spells commencing from 17.12.2001 to 26.12.2001 and again from 26.01.2002 to 18.02.2002 and also from 14.03.2002 to 22.03.2002. This establishes that the life assured was suffering from HIV+ and he was undergoing treatment in a hospital a mere month and half before the revival of the policy.

- iii) The above material information was vital for the insurer to assess the risk while reviving the policy;
- iv) The life assured ought to have disclosed the facts to the insurer while requesting for the revival of his lapsed policy and by suppressing the vital material facts the life assured committed breach of utmost good faith;
- v) HIV+, also known as AIDS, is a lethal disease and the mortality rate in the affected is as high as 90% according to MOSBY's Medical Dictionary 2003. Life Assured's intention in reviving the policy while almost undergoing treatment can not be innocent; and fraudulent motive cannot be ruled out.
- vi) In the light of the evidences submitted, I hold that the insurer is within his rights in the repudiation of the claim. The complaint fails and it is dismissed.

The Complaint is, therefore, 'Not Allowed'.

Hyderabad Ombudsman Centre

Case No. L-1145/03-04

Sri Daparthu Achuta Rao

Vs.

Life Insurance Corporation of India

Award Dated 19.12.2003

Smt.Daparthu Mangayamma, housewife, resident of Gowripatnam, West Godavari District, took a life insurance policy as per details mentioned below: -

Policy No.	: 801429058
Date of Proposal	: 27.09.1997
Date of Acceptance/FPR	: 20.10.1997
Sum Assured	: 2,00,000
Plan & Term	: 14-15
Date of commencement of risk	: 20.10.1997
Date of Revival	: 30.04.2001
Date of Death	: 25.12.2002
Date of Repudiation	: 31.03.2003
Cause of death	: Diabetic Ketoacidosis, Nephropathy

BACKGROUND

One Smt. D. Mangayamma, Housewife, Gowripatnam, West Godavari District took the above insurance policy from Kovvur Branch under Rajahmundry Division. The life assured died on 25.12.2002 due to diabetic ketoacidosis- diabetic nephropathy. The LIC repudiated the claim

made by the complainant citing the reason that the life assured, while reviving the policy on 30.04.2001 did not disclose the fact that he was suffering from diabetes for 15 years and was on OHA. It was also alleged that the life assured gave false answers to certain questions in the proposal form and personal statement of health. The LIC further claimed that they held indisputable proof to show that the life assured was known to be a diabetic for 15 years prior to the date of proposal and prior to the date of revival. She however, did not disclose these facts in the form of personal statement of health. Instead she gave false answers. Finding the life assured to be guilty of deliberate suppression of material facts relating to her health at the time of taking the insurance policy and also at time of reviving the policy on 30.04.2001, the claim was repudiated by LIC.

DECISION:

Since the complainant did not attend the personal hearing, I took note of the earlier written contentions of the complainant. Also I heard the contentions of insurer during the personal hearing.

- i) Sec.45 of Insurance Act, 1938 is applicable under the claim. The implication is that the insurer can consider repudiation of the claim if there is suppression of material facts relating to consideration of insurance besides fraudulent intention on the part of the life assured.
- ii) The life assured did not disclose about the condition of diabetes when she submitted the proposal form for revival of the Policy. The cause of death diagnosed is apparently a complication arising out of diabetes mellitus. Life assured ought to have disclosed the condition if she was aware of the condition. However, even if a person is aware of such condition, he or she can be understandably in the belief that the condition is of no consequence if his/her life style, diet and medication control and almost remove the condition. Being normal, he or she may be under the illusion that the condition need not be mentioned. Further, in practice, it is often the agent who fills up the form after taking the signatures on blank form. Agent was not, however; examined in this case. Also, as it is a medical scheme policy, the LIC's doctor's role in the matter should have been brought out by the insurer. After all a fraudulent motive can not be established without going through all these investigations
- iii) The insurer has not submitted any evidence i.e. particulars of treatment taken for the diabetes etc. for the period prior to the treatment taken before her death on 24.12.2002. Moreover the life assured survived for approximately 5 years from the date of commencement under the above policy. It is not clear whether the life assured was insulin dependent. With the advanced research in medicine, more efficacious and powerful drugs and injections have been formulated for diabetes and people with this are found to be leading normal life lasting into their late seventies or even eighties. The life assured was only fifty years old when she took/ revived the policy. Thus I find that it is difficult to attribute malafide intention to the life assured when she revived the policy.
- iv) Sec.45 of Insurance Act, 1938 is attracted on facts of the case. The insurer is called upon to establish that the insured not only suppressed material facts but did so with the motive of defrauding the insurer. In this case, all that the insurer did is to point out certain statements in the hospital record relating to treatment after the commencement of the policies. This is not at all sufficient, as very

high degree of proof is required to drive home culpability and / or “mens rea” on the part of the deceased life assured.

- v) Since all the ingredients required under Sec. 45 of Insurance Act, 1938 have not been fulfilled by the insurer for repudiating the claim. I feel that the action of the insurer in rejecting the claims in full is not justified.
- vi) In view of the above, I am of the view that ends of justice would be adequately met if the insurer accepts the claim for a sum Rs. 50,000 in total under both the policies as Ex-gratia.
- vii) I, therefore, direct the insurer to settle the claims for a total sum of Rs. 50,000 under both policies Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

Hyderabad Ombudsman Centre

Case No. L-1084/03-04

Smt. L. Satyavathi

Vs.

Life Insurance Corporation of India

Award Dated 26.12.2003

Sri Lankapalli Appa Rao, Mechanic and resident of Vijayawada took a life insurance policy, as per details mentioned below: -

Policy No.	: 671985183
Date of Proposal	: 22.03.1998
Date of Acceptance/FPR:	28.03.1998
Sum Assured	: 50,000
Plan & Term	: 14-15
Date of revival	: 22.10.2001
Date of Death	: 31.07.2002
Date of Repudiation	: 03.03.2003
Cause of death	: Heart Attack

BACKGROUND

The life assured late Sri Lankapalli Appa Rao working as a Mechanic and resident of Vijayawada took the above policy from City Branch-I, Vijayawada under Machilipatnam Division, of LIC of India as per the details furnished. The life assured died due to sudden heart attack. The claim under the policy was repudiated by LIC on the grounds of deliberate suppression of material facts, as the life assured did not disclose his treatment for diabetes and hypertension prior to revival of the insurance policy from Dr. K. Buchi Babu of Vijayawada. Smt. L. Satyavathi, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Machilipatnam Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 16.12.2003 at Guntur. Smt. L. Satyavathi, the complainant and nominee of the deceased life assured attended the hearing. Smt. C. Vijayalakshmi, A.O (Claims) LIC, Machilipatnam Division represented the LIC.

DECISION :

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

- i) Section 45 of Insurance Act 1938 is applicable under the claim. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- ii) The life assured took an Endowment Assurance Policy in 3/98 and paid premia regularly upto 9/2000. The insured did not pay the premiums due 3/2001 and 9/2001. Hence the policy remained in a lapsed condition. Later, he got the policy revived on 22.10.2001 by paying the arrears of premia with interest and also submitting a declaration of good health form;
- iii) In support of the repudiation, the insurer obtained a certificate dated 25.02.2003 from Dr. K. Buchi Babu of Vijayawada wherein the doctor reported that the life assured died due to Myocardial Infarction on 31.07.2002, suffered from mild diabetes and hypertension for which he was on treatment since 7/2001. The LIC also obtained information from the doctor in claim form B wherein the doctor had reported the duration of illness as one year;
- iv) In the instant case, Section 45 of the Insurance Act 1938 is applicable. It is therefore, the onus of the Insurer to fulfil all the ingredients required under the above Section before repudiating a claim. The only evidence obtained by the insurer is in the form of a Certificate dated 25.2.2003 issued by Dr. K. Buchi Babu of Vijayawada. This certificate is not supported by any documentary evidences such as certified copy of prescription, details of admissions as in patient, full particulars relating to the medicines used and the various pathological tests undergone by the insured for diabetes and hypertension. Even the insurer could not obtain any concrete evidence duly mentioning the different readings of hypertension of the life assured recorded by the Doctor on different dates, especially when their contention is that the life assured had deliberately suppressed material facts relating to hypertension;
- v) The Investigating Official of LIC also in his report dated 26.2.2003 informed that the life assured was treated only as out-patient and no case records were available with the doctor mentioned above;
- vi) As could be seen from the observations given above, the LIC could not prove with requisite material evidence that the life assured fraudulently suppressed material information relating to his health, which might have had adversely affected their underwriting at the time of reviving the policy. In the absence of the case sheets, discharge summary and prescriptions/treatments etc., the repudiation action of the insurer is not justified. I would therefore, direct the Corporation to settle the claim to the holder of the title of the policy.

The complaint is admitted.

Hyderabad Ombudsman Centre

Case No. L-1073/03-04

Smt. G. Ruth

Vs.

Life Insurance Corporation of India

Award Dated 26.12.2003

Sri G.Vijaya Kumar, Clerk cum Cashier, Working in State Bank of India, Kapileswarapuram Branch, took a life insurance policy as per details mentioned below: -

Policy No. : 672450146
Date of Proposal : 31.01.2000
Date of Acceptance/FPR : 15.02.2000
Sum Assured : 1,00,000
Plan & Term : 133-19
Date of commencement of risk : 15.02.2000
Date of Death : 13.05.2001
Date of Repudiation : 24.12.2001
Cause of death : Sudden chest pain

BACKGROUND

One Sri G.Vijaya Kumar, clerk cum cashier, State Bank of India, Kapileswarapuram took the above insurance policy from Machilipatnam Town Branch No. 1 under Machilipatnam Division. The life assured died on 13.05.2001 due to sudden chest pain. The LIC repudiated the claims made by the complainant citing the reason that the life assured, while taking the policy on 31.01.2000, did not disclose that he was suffering from diabetes for 6 years. It was also alleged that the life assured gave false answers to certain questions in the proposal form. The LIC further claimed that they held indisputable proof to show that the life assured was known to be a diabetic for 6 years prior to the date of proposal. He however, did not disclose these facts in the form of personal statement of health. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

DECISION:

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

- i) Sec.45 of Insurance Act, 1938 is not applicable to the claim. The implication is that the insurer can consider repudiation of claims if there is suppression of material facts relating to consideration of insurance.
- ii) The evidence submitted by the insurer is in the form of a case record issued by Nagarjuna Hospital, Vijayawada. The life assured was admitted in the above hospital on 30.03.2001 and took treatment upto 07.05.2001. The hospital record mentions the history of ailment as "Known - DM since 7 years, not known HTN, COPD, not a known smoker/alcoholic." These facts no doubt are very essential from the point of view of the insurer in evaluation of risk.
- iii) According to the claim form E (certificate by employer regarding the leave particulars) the life assured did not avail any medical leave prior to the date of taking the policy.
- iv) The insurer has not submitted any evidence i.e. particulars of treatment taken for the diabetes etc., for the period prior to the date of taking the policy. Moreover the life assured was examined by the panel medical examiner of LIC at the time of execution of the proposal. The medical examiner did not find any

adverse features. Thus I find that there was no malafide intention on the part of the life assured.

- v) The onset of diabetes as mentioned in the hospital case sheet, indicated that the life assured was a diabetic for some 3 years prior to the date of taking the policy. However, as the insurer could not submit any evidence to establish that the life assured was taking treatment for diabetes as on the date of executing the proposal I feel that the action of the insurer in rejecting the claims in full is not justified.
- vi) In view of the above, and in view of the fact that according to insurer's own admission in their own administrative instructions, even in cases of early claims, fraud on the part of the life assured has to be brought out for repudiation, I am of the view that ends of justice would be adequately met if the insurer accepts the claims for a sum Rs.1,00,000 as face value of the policy under Ex-gratia.
- vii) I therefore direct the insurer to settle the claims for a total sum of Rs.1,00,000 under the policy Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

The complaint is allowed as Ex-gratia for a total amount of Rs.1,00,000 under the above policy.

Hyderabad Ombudsman Centre

Case No. L-2067/03-04

Smt. B. V. Pushpalatha

Vs.

Life Insurance Corporation of India

Award Dated 29.12.2003

Sri B.Durgaprasada Rao, working as a Mechanic in APSRTC, Piduguralla (Po), Guntur District took a life insurance policy, details of which are mentioned below:

Policy No.	:	670515505
Date of Proposal	:	30.03.2000
Date of Acceptance/FPR:	:	28.03.2000
Date of commencement	:	28.03.2000
Sum Assured	:	Rs.50,000
Plan & Term	:	93-25
Date of Death	:	20.01.2001
Date of Repudiation	:	10.08.2001

BACKGROUND

One Sri B.Durgaprasada Rao, working as a Mechanic in A.P.S.R.T.C. Piduguralla, Guntur District took the above insurance policy from CAB Branch under Machilipatnam Division. The life assured died due to perforation of peptic ulcer. When the claim was made by Smt. B.V. Pushpalatha, the LIC repudiated the claim on the grounds of suppression of material facts, as the life assured did not disclose his treatment for peptic ulcer and dyspepsia prior to taking the insurance policy, for which he consulted Dr. B. Purnachandra Rao and took treatment from him. Further it was alleged that the life assured had the knowledge of the treatment, yet he gave incorrect and false answers to the relevant questions in the proposal form at the time of taking the insurance. Smt. B. V. Pushpalatha, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Machilipatnam

Division. Aggrieved with the rejection of the claims, the complainant represented to this office. A personal hearing was arranged on 16.12.2003 at Hyderabad. The complainant Smt. B. V. Pushpalatha represented herself. Sri Vamsikrishna, her cousin, also assisted her. Smt.Ch.Vijayalakshmi; A.O (Claims) LIC, Machilipatnam Division represented the LIC.

DECISION:

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

- i) Sec.45 of Insurance Act, 1938 was not applicable to the claim. The implication is that the insurer reserves the right to repudiate a claim if there is any untrue averment in the proposal for insurance submitted by the life assured to the L.I.C;
- ii) The life assured took a Money Back Policy on 30.03.2000 for a Sum Assured of Rs.50,000 under Non-medical Scheme (without undergoing medical examination). The insured died on 20.01.2001. The cause of death was reported to be stomach pain. The duration of the claim was just 10 months;
- iii) According to the insurer, the life assured suffered from peptic ulcer for 6 months and dyspepsia for 2 months, before taking the insurance policy. The life assured did not disclose these material facts to the insurer at the time of taking the insurance policy. As there is nexus between the cause of death and the material facts not disclosed, I decline to interfere with the decision of the insurer.

**Hyderabad Ombudsman Centre
Case No. L-2050/03-04
Smt. Thangamma
Vs.
Life Insurance Corporation of India**

Award Dated 31.1.2003

Sri K.Sreedharan, working as hatcher in New Mangalore Port Trust, took a life insurance policy from Career Agents Branch, Mangalore of LIC under Udupi Division, as per details furnished below:-

Policy No.	:	623271551
Date of Proposal	:	03.01.1999
Date of Acceptance/FPR	:	28.02.1999
Date of commencement	:	28.02.1999
Sum Assured	:	5,00,00
Plan & Term	:	14-10
Date of Death	:	11.04.2001
Date of Repudiation	:	24.05.2002

FACTS OF THE CASE

One Sri K. Sridharan, hatcher in New Mangalore Port, Mangalore took a life insurance policy from Career Agents Branch, Mangalore Branch of LIC of India, under Udupi Division. The life assured died on 11.04.2001 due to Carcinoma head of pancreas with secondaries in liver, Portahepatis, Ascitis, Para atotic Secondaries leading to malignant cachexia. Smt. Thangamma, who is the nominee

and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 24.05.2002, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that he had been suffering from Diabetes Mellitus since 2 years and 8 months before he proposed for the above policy, he had also suffered from 'cough with Expectoration about 1 year 3 months before proposing for the above policy for which he had consulted a doctor and had taken treatment for him in a hospital. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC. Smt. Thangamma, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Udupi Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

Observations of Insurance Ombudsman:-

- a) Sec.45 of Insurance Act 1938 is applicable to the claim. The implication is that the insurer can consider repudiation of the claim if there is suppression of material facts relating to consideration of insurance besides fraudulent intention on the part of the life assured.
- b) The insurer submitted two evidences in the form of hospital treatment case sheets from: - i) Father Muller's Hospital, Mangalore and ii) some clinical note sheets claiming to have been obtained from Mangalore Port Trust Hospital. According to the evidence obtained from Father Muller's Hospital, Mangalore, it has been observed that the life assured was treated in the hospital during October and November 2000 for jaundice and Gall Bladder Enlargement. Subsequently, the life assured was treated there during Feb, March and April 2001 before his death. As the period of treatment pertained to the period after taking of the policy, the insurer has not raised any adverse comment to the extent of these treatments in the claim repudiation letter.
- c) The other evidence which the insurer claims to be indisputable one is from Mangalore Port Trust Hospital suffers from shortcoming in respect of the authenticity of the records. Though the insurer stated that the evidence obtained by them is from Mangalore Port Trust Hospital, I find that no where the name of the hospital is mentioned in the records. These sheets bear clinical notes of ailments suffered by the life assured between the period September 1992 to June 1999. According the clinical note sheets produced before me, the doctor made a noting on 06.04.1999 and the said noting contains "Known case of I.D.D.M since 5 years".
- d) Cough & Expectoration, injury to right foot etc. are minor ailments and they could not be construed to be good ground for rejection of claim, especially when Sec.45 of Insurance Act 1938 is applicable to the claim. During the period from Sept. 1992 to Feb. 1999 the life assured was treated as an outpatient. Only from 28.02.1999 i.e. after executing the proposal only the life assured was treated as an in patient in the hospital.
- e) It is not known why the LIC could not secure evidence regarding the treatment taken by the life assured with the name of the hospital mentioned on the case sheet/ clinical notes. Though the LIC stated that they secured indisputable evidence to establish that the life assured was suffering from diabetes mellitus even before taking the policy, it could not prove its point in view of the flaw in the evidence secured.

- f) The claim form B and B 1 rendered by Dr. P. Sathyamoorthy Aithala also mentioned that Diabetes Mellitus was an associated disease that co-existed along with "Carcinoma Head Pancreas".
- g) The insurer did not secure and submit clinching evidence to support their contention that the life assured was indeed a diabetic before taking the policy and a specific line of treatment was recommended to him. In absence of the details regarding the alleged diabetes since 5 years, it is not justified to repudiate a claim taking shelter under breach of utmost good faith/ warranty clause especially when Sec. 45 is applicable to the claim.
- g) In view of the above, I am of the view that ends of justice would be adequately met if the insurer accepts the claim for a sum Rs.25,000 in total under the policy under Ex-gratia.
- h) I therefore, direct the insurer to settle the claim for a total sum of Rs.25,000 under policy Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

Hyderabad Ombudsman Centre

Case No. L-2072/03-04

Smt. Anasuya B. Kolekar

Vs.

Life Insurance Corporation of India

Award Dated 13.1.20041

The life assured late Sri Balachandra Shivaji Kolekar, an Overseer employed in KPTCL, O & MM Sub-Division, Gulbarga District, took a life insurance policy from Bijapur Branch of LIC under Belgaum Division, as per details furnished below: -

Policy No.	:	661336413
Date of Proposal	:	12.03.2000
Date of Acceptance/FPR	:	28.03.2000
Date of commencement	:	28.03.2000
Sum Assured	:	50,000
Plan & Term	:	106-15
Date of Death	:	16.02.2002
Date of Repudiation	:	24.12.2002

Sri Balachandra Shivaji Kolekar, working as Overseer in KPTCL, O& MM Sub-Division, Gulbarga District took a life insurance policy from Bijapur Branch of LIC of India, under Belgaum Division. The life assured died on 16.02.2002. The cause of death was reported to be Carcinoma Bladder. Smt. Anasuya B. Kolekar, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 24.12.2002 citing the reason that the life assured while proposing for insurance gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 2 years before he proposed for the above policy, he had suffered from 'Ca. Bladder' disease, consulted a medical man and had taken treatment in hospital. It was also alleged that the life assured was on medical leave for 295 days between the period June 1997 to August 1999. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the

insurance policy, the claim was repudiated by LIC. Smt. Anasuya B. Kolekar, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Belgaum Division.

DECISION:-

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

- i) Section 45 of Insurance Act, 1938 is applicable to the claim. The implication is that the insurer can consider repudiation of the claim if there is not only suppression of material facts but also fraudulent intention;
- ii) According to the certificate dated 24.06.2000 issued by Dr. Mudaraddy of Hubli (letter addressed to Tata Memorial Hospital, Mumbai), the life assured was first diagnosed to have superficial bladder tumor in 1988 and from then onwards, he was under treatment till 9/1997;
- iii) According to the treatment particulars obtained by LIC in their claim forms B/BI from Bijapur Kidney Foundation, Bijapur, where the insured, was admitted there on 24.12.2001, it was reported by the hospital authorities that the life assured was suffering from Ca. Bladder- since 3 to 4 years, which confirmed beyond doubt that the life assured was not keeping good health at the time of taking the insurance policy;
- iv) The life assured underwent several tests at Tata Memorial Hospital, Mumbai, which confirmed the fact that the life assured was having Ca. Bladder even before taking the insurance policy;
- v) Had the life assured disclosed the above material facts, according to the underwriting norms of LIC, they would not have considered insurance;
- vi) There is clear nexus between the material facts suppressed and the cause of death;

Hyderabad Ombudsman Centre

Case No. L-1122-2003-04

Smt. B. Pushpalatha

Vs.

Life Insurance Corporation of India

Award Dated 22.1.2004

Sri Byrusetty Ravi, S/o Sri Byrusetty Chinnaiah, doing fancy business and cultivation and resident of M. G. K. Palem Village, under Chillakur Mandal, Nellore District, took a life insurance policy from Gudur Branch of LIC under Nellore Division, as per details furnished below:-

Policy No.	:	840715820
Date of Proposal	:	27.05.2002
Date of Acceptance/FPR	:	28.06.2002
Date of commencement	:	28.06.2002
Sum Assured	:	2,00,000
Plan & Term	:	133-21

Date of Death : 13.07.2002
Date of Repudiation : 29.11.2002

FACTS OF THE CASE

Sri Byrusetty Ravi, S/o Sri Byrusetty Chinnaiah, doing fancy business and cultivation and resident of M. G. K. Palem Village of Chillakur Mandal under Nellore District, took a Life Insurance Policy from Gudur Branch of LIC of India, under Nellore Division. The life assured died on 13.07.2002. The cause of death was reported to be Carcinoma Hypopharynx. Smt. B. Pushpalatha, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 29.11.2002, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about one month before he proposed for the above policy, he had suffered from '**Carcinoma of the hypopharynx with right cervical lymphnodal metastasis**' disease and took treatment for the same in Cancer Institute (WIA), Chennai. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Smt.B.Pushpalatha, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

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

- i) Sri Byrusetty Ravi, S/o Sri Byrusetty Chinnaiah, doing fancy business and cultivation and a resident of M. G. K. Palem Village in Nellore District took a Jeevan Mitra Triple Cover Endowment Assurance Policy for a Sum Assured of Rs.2,00,000. He had executed the proposal for insurance on 27.05.2002 and the risk under the policy commenced on 28.06.2002. The life assured died on 13.07.2002. The cause of death was reported to be "**Carcinoma Hypopharynx**". The duration of the claim was just 16 days only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) According to the treatment particulars obtained by the insurer in their claim forms B/ BI from the Cancer Institute (WIA), Chennai, the life assured consulted them on 02.05.2002 and took treatment as outdoor patient, vide OP NO. 3996/2002, during the period 02.05.2002 to 24.05.2002. The diagnosis arrived by them was "**Advanced Carcinoma Hypopharynx**";
- iii) According to the above claim forms B/B 1 issued by the Cancer Institute, Chennai, **the primary cause of death was - Carcinoma Hypopharynx and the secondary cause was - Advanced Disease**;
- iv) According to the Case Summary dated 22.10.2002 (No.3996/2002), the life assured was reported to be a case of advanced carcinoma of the hypopharynx with right cervical lymphnodal metastasis reported to the Institute on May 2nd 2002. Further, following their investigations, he was found not to be suitable for radical surgery. He was also advised intubation for feeding purposes and subsequently, the life assured did not report to the Institute;
- v) The consultation and treatment by the life assured at Cancer Institute (WIA), Chennai, were prior to taking the insurance policy. The disease with which the life assured was suffering

and the consultations and treatments for the same were all well within his knowledge especially as these occurred under just one week before the date of proposal and therefore, he ought to have disclosed to the insurer all the material facts relating to his health, while effecting the proposal for insurance;

- vi) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer. Though the insured had been suffering from Carcinoma Hypopharynx disease, as reported by the hospital authorities before taking the insurance policy, the insured suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;
- vii) Incidentally, the suppression of material fact of his illness of Carcinoma Hypopharynx from which the life assured suffered and took treatment prior to taking the insurance policy, has nexus with the cause of death on 13.07.2002;
- viii) It may also be mentioned here that Dr. Y. J. Prabhakar Reddy, authorised medical examiner of LIC, examined the life assured. The LIC Development Officer, who, incidentally also witnessed the proposal for insurance, introduced the life assured to the doctor. It is difficult to avoid the impression that the Development Officer and the Doctor in this case have abetted the life assured in suppression of material facts to enable him to defraud the LIC;
- ix) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Carcinoma Hypopharynx, prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- x) Therefore, for the reasons mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1130-2003-04

Smt. V. C. Rathamma

Vs.

Life Insurance Corporation of India

Award Dated 24.1.2004

Sri V. Pedda Muneppa, S/o Sri V. Chengappa, a resident of Gudikothur Village of Kuppam Mandal under Chittoor District took two life insurance policies, as per details mentioned

below: -

Policy No.	:	650448335	650449179
Sum Assured	:	Rs.50,000	Rs.50,000
Plan & Term	:	75-20	121-25
Date of commencement of risk	:	14.03.1995	20.01.1996
Date of Acceptance of Risk	:	14.03.1995	20.01.1996
Date of Revival	:	31.08.2001	31.08.2001
Date of Death	:	05.09.2002	05.09.2002
Date of Repudiation	:	03.03.2003	03.03.2003
Cause of death	:	Paralytic Stroke	

FACTS OF THE CASE:

One Sri Vallapi Pedda Muneppa, S/o Sri Vallapi Chengappa, working as LIC Agent and resident of Gudikothur Village of Kuppam Mandal, under Chittoor District took the above two life insurance policies from Palamaner Branch of LIC, under Nellore Division. Both the policies were under Salary Savings Scheme, applicable to LIC Agents. They were in a lapsed condition due to non-payment/adjustment of premium due from 01/2000. Subsequently, the policies were revived by the life assured on 31.08.2001. The life assured died on 05.09.2002. The cause of death was reported to be paralytic stroke. Smt. C. Rathnamma, who is the nominee and complainant under the policies, lodged a claim with the LIC. Both the claims were repudiated by LIC of India, citing the reason, that the life assured, while reviving his lapsed policies, gave false answers to certain questions in the declaration of good health form, submitted by him at the time of reviving his lapsed policies. It was also stated by the LIC, that they held indisputable proof, to show that even before he revived his lapsed policies, he suffered from **Intradural Archanoid Cyst (?tuberculosis) at D4-D6 since 08/2000**. He, however, did not disclose these facts in the declaration of good health form. Instead, he gave false answers to the relevant questions in the declaration of good health form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of reviving his lapsed policies, the insurer repudiated the claims, by setting aside the revivals and offered the paid-up value, which accrued, as on the date of revival of the policies.

Smt. V. C. Rathnamma, W/o of the life assured and the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claims, the complainant represented to this office.

I heard the contentions of LIC as the complainant did not attend the hearing and perused all the documents, including the written submissions of the complainant, placed before me.

d) The life assured took two life insurance policies in 03/95 and 12/95 for a Sum Assured of Rs.50,000 each, under the Salary Savings Scheme, applicable to LIC Agent. Accordingly, the premium amount for the policies was recovered from the commission paid to the life assured and adjusted towards the premium of the policies upto 12/99. The life assured fell sick. As the commission amount was not sufficient to cover the premium amount, LIC did not recover the same from the commission and adjust towards the premiums under the policies. Hence, the policies lapsed. The life assured got the policies revived on

31.08.2001 by paying the entire arrears of premia with interest and also submitted declaration of good form duly executed by him. Later, the life assured died on 05.09.2002. The duration of the claims from revival was just 1 year. Since they were early claims, the LIC arranged for investigation of the claims;

- e) LIC repudiated both the claims by setting aside the revivals effected on 31.08.2001, as the life assured deliberately suppressed material facts relating to his health prior to revival of the policies;

According to the treatment particulars obtained by the insurer in their claim forms B/B1 from SVIMS Hospital, Tirupati, the life assured was admitted there on 31.08.2000 vide Hosp. No. 161097 and discharged on 05.09.2000. The diagnosis arrived at the hospital was **"Intradural Archanoid Cyst (?tuberculosis) at D4-D6"**. Further, the life assured was admitted to the hospital **"with complaints of weakness of both lower limbs since one month, back pain since one and half years and h/o extra marital affairs"**;

- g) According to the certificate dated 05.09.2000, issued by Department of Neurosurgery, SVIMS Hospital, Tirupati, **the life assured was admitted in the Neurosurgery Ward with Paraplegia on 03.09.2000 and discharged on 05.09.2000 and on investigation, he has no changes of recovery, even after surgical treatment"**;

- h) The policies were revived on 31.08.2001, just one year before his admission and treatment in the SVIMS Hospital, Tirupati. Therefore, the life assured knew that he was suffering from intradural archanoid cyst (?tuberculosis) at D4-D6. Therefore, this admission and treatment in the SVIMS Hospital, Tirupati which was prior to revival of the policies and which were well within the knowledge of the life assured, ought to have been disclosed by the life assured at the time of revival of the policies;

- i) The suppression of material fact of his illness from 31.08.2000 to 05.09.2000 had nexus with the cause of his death on 05.09.2002;

- j) In the circumstances of this case, therefore, the suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. The fraudulent intention is also very clear, in that, the life assured had not disclosed the disease in the personal statement of good health submitted by him for the purpose of revival of his lapsed policies, although he was very much aware of the same;

- k) The insurer was well within his right to invoke Section 45 of the Insurance Act, 1938 in the present case and fulfilled all the three ingredients, as required under the said section and repudiated the claims;

- l) Therefore, I have to hold for the reasons as aforesaid and also in the light of medical evidences available on record as referred to above, the repudiation of the claim, setting aside the revival, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claims by the insurer does not warrant any interference at my hands. I also uphold the decision of the insurer in offering paid-up value together with accrued amounts, as mentioned in his letter of repudiation dated 03.03.2003.

The complaint is, therefore, not allowed.

Hyderabad Ombudsman Centre
Case No. L-2054/2003-04
Smt. Leela Krishna
Vs.
Life Insurance Corporation of India

Award Dated 27.1.2004

Sri K. Krishna, an auto consultant and businessman/mechanic took three insurance policies from City Branches of LIC under Bangalore Division I as per details furnished below.

Policy No.	612229447	612247162	612350844
Date of Proposal	19.12.1998	03.12.1998	19.12.1998
Date of Acceptance/FPR	30.11.1998	15.12.1998	31.03.1999
Sum Assured	1,00,000	2,00,000	3,00,000
Plan & Term	14-15	75-20	75-20
Date of Commencement of risk	28.11.1998	15.12.1998	27.02.1999
Date of Death	31.10.2001	31.10.2001	31.10.2001
Date of Repudiation	04.10.2002	04.10.2002	04.10.2002
Cause of death	Uraemic- Encephalopathy, case of Chronic Renal Failure on Haemodialysis with Diabetes & Hypertension		

FACTS OF THE CASE

Sri K. Krishna, an auto consultant and businessman/mechanic in Bangalore took the above insurance policies from City Branches of LIC under Bangalore Division-I of LIC of India. The life assured died on 31.10.2001. The cause of death was reported to be Uraemic Encephalopathy-Case of Chronic Renal Failure on Haemodialysis with Diabetes and Hypertension. Smt. Leela Krishna, who is the nominee and complainant under the policies, lodged a claim with the LIC. The LIC repudiated her claims on 04.10.2002, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that even before he proposed for the above policies, he was known to be a diabetic and hypertensive and suffered from chronic renal problem since 1996 and was under dialysis. He, however, did not disclose these facts in the proposals. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policies, the claims were repudiated by LIC.

DECISION:-

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

- i) Sri K. Krishna, an auto consultant and businessman/mechanic, took three life insurance policies in 11/98, 12/98 and 03/99 for Sums Assured of Rs.1 lakh, Rs.2 lakhs and Rs.3 lakhs respectively. He died on 31.10.2001. All the three insurance policies have run for more than 2 years. Hence Sec.45 of the Insurance Act, 1938 is applicable under all the claims. The implication is that, before considering repudiation of the claims invoking 2nd part of the Sec.45, the insurer must fulfil all the three ingredients 'required under the above section;
- ii) All the three claims were repudiated by the insurer, on the ground that the life assured had deliberately suppressed material facts relating to his health before taking the insurance policies in question;
- iii) According to the insurer, the life assured was a diabetic, hypertensive, suffering from renal problem since 1996 and was on dialysis even before the date of the proposals. In support of their repudiation, they obtained case summary and discharge record from St. John's Medical College Hospital, Bangalore. According to this, the life assured was admitted there on 27.05.2000 vide Admission No.1351020/481725 and discharged on 06.06.2000. The final diagnosis arrived at the hospital was: "**Diabetes Mellitus-Type 2; Chronic Renal Failure on Maintenance Haemodialysis; Access Right UC; Advanced Diabetic Cataract (L) Eye; Right Eye-Proliferative Diabetic Retinopathy with Atrophic Maculopathy; Left AV Fistula Constructed; Immunised for HBaAg.**" According to the summary of the hospital, it was reported that the life assured was a known **diabetic with one year** history of recurrent pedal edema and facial puffiness, vomiting and tightness of chest of 2 weeks duration. Ophthalmology reference revealed right eye proliferative retinopathy. The patient was advised to continue maintenance haemodialysis on OPD basis and to go for renal transplantation;
- iv) According to the progress record obtained by the insurer from St. John's Medical College Hospital, Bangalore, the life assured was again admitted there on 24.10.2001 vide Admn.No.1492291 /531183 and discharged on 26.10.2001. The diagnosis arrived was "Metabolic Encephalopathy ?Uraemic; EDRS on MHD & Diabetes Mellitus Hypertension. It was also reported that **Chronic Renal Failure - Detected in 1996** and the life assured was known to this hospital for ESRD;
- v) The insured was taken to Sharada Dhanvanthari Charitable Dispensary, Bangalore during 09/2001 and 10/2001 for the treatment of haemodialysis, as per certificate dated 18.01.2002 obtained by the insurer from the hospital;
- vi) According to the treatment particulars obtained by the insurer in their claim forms B/B 1 from St.John's Medical College Hospital, Bangalore, the life assured was admitted there on 24.10.2001 vide Hosp. No.1492291- IP No.531183 in an unconscious state and expired in the hospital itself on 31.10.2001. The diagnosis arrived at the hospital was "**Renal Failure-Encephalopathy**". The primary cause of death as per claim form B was - "**Uraemic Encephalopathy**" and the secondary cause was - "**Case of Chronic Renal Failure on Haemodialysis with Diabetes & Hypertension**". It was

reported by the hospital authorities in the claim form B, against Q.No.(6) as - **Renal Failure since 2000 and Diabetes Mellitus-Hypertension;**

- vii) In this connection, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter-alia, that no policy of insurance effected after the coming into force of this Act after the expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a Medical Officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was inaccurate or false **unless the insurer shows that such a statement was on a material matter or the insured suppressed a fact, which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose;**
- viii) According to Mosby's Medical Dictionary -2003 (Page No.978), the implications of Renal Failure are: Inability of the kidneys to excrete wastes, concentrate urine and conserve electrolytes. The condition may be acute or chronic. Chronic Renal Failure may result from many other diseases. The early signs include sluggishness, fatigue and mental dullness. Later anuria, convulsions, G.I.Bleeding, malnutrition and various neuropathies may occur. The skin may turn yellow-brown and become covered with uremic frost. Congestive Heart Failure and Hypertension are frequent complications, the results of hypervolemic urinalysis reveals greater than normal amounts of urea and creatinine, waxy casts and a constant volume of urine regardless of variations in water in take. Anemia frequently occurs. The prognosis depends on the underlying cause. Treatment usually includes restricted water and protein in take and the use of diuretics. When medical measures have been exhausted, long-term hemodialysis is often begun and kidney transplantation is considered;
- ix) On a close perusal of the treatment particulars reported in the above hospital records, it is observed that there exists some discrepancy relating to the information furnished by the hospital authorities about duration of the illness;
- x) Further, according to underwriting norms of LIC, had the life assured disclosed the material facts at the time of taking the policies they would have advised the life assured for obtaining some more special medical tests and depending upon the outcome of these tests, the question of considering insurance would have been decided;
- xi) The suppression of material facts of his illness from 1996 has nexus with the cause of death on 31.10.2001;
- xii) If the above events were put together in chronological order, it would establish the fact that the life assured was a chronic renal failure patient right from 1996 as confirmed by the hospital records of St. John's Medical College Hospital, Bangalore. Therefore, it goes beyond doubt that the life assured was not in good health even before taking the insurance policies;
- xiii) In the circumstances of this case, therefore, the suppression of material facts by the life assured is very clear. Contract of insurance is contract of utmost good faith and in the present case, the facts suppressed were obviously material to the assessment of the risk. The fraudulent intention is also very clear in that the life assured had not disclosed the disease in the proposal for insurance submitted by him for the purpose of insurance, although he was very much aware of the same;

- xiv) The insurer was well within his right to invoke Section 45 of the Insurance Act, 1938 in the present case and fulfilled all the three ingredients, as required under the said section and repudiated the claims;
- xv) Therefore, I have to hold for the reasons as aforesaid and also in the light of the medical evidences available on record as referred to above, the repudiation of the claim, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claims by the insurer does not warrant any interference at my hands.

In the result, the complaint is dismissed.

Hyderabad Ombudsman Centre

Case No. L-1075/2003-04

Smt. A. Kalpana

Vs.

Life Insurance Corporation of India

Award Dated 27.1.2004

Sri A.Bhaskar Rao, work Inspector, A.P. State Housing Corporation, Kurnool took two life insurance policies, details of which are mentioned below: -

Policy No.	: 651422102	651423491
Date of Proposal	: 18.09.1995	30.03.1997
Date of Acceptance/FPR	: 20.09.1995	31.03.1997
Sum Assured	: 50,000	50,000
Plan & Term	: 75-20	14-21
Date of Revival	: 10.01.2000	10.01.2000
Date of Death	: 23.03.2002	23.03.2002
Date of Repudiation	: 02.02.2003	02.02.2003
Cause of death	: -----	Brain Cancer -----

FACTS OF THE CASE

The life assured late Sri A.Bhaskar Rao, Work Inspector, A. P. State Housing Corporation, Kurnool took the above policies from Kurnool Branch of Cuddapah Division, as per the details furnished above. The policies lapsed due to non-payment of premia due from quarterly due 11/1998. Later the life assured revived the policies on 10.01.2000 by submitting a declaration of good health form and paying the arrears of premia. The insured died on 23.03.2002 due to Glioblastoma Multiforme (Brain Cancer). The claim under the policy was repudiated by LIC on the grounds of suppression of material facts, as the life assured did not disclose his treatment for right temporal Glioblastoma for which he took treatment in a hospital during the month of November 1998 which was prior to revival of the insurance policy. It was also alleged that the life assured was on medical leave for 90 days during 01.11.1998 to 31.01.1999. He however, did not disclose these facts in his said personal statement regarding health. Smt. A.Kalpana, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

DECISION:

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

- i) Late Sri A. Bhaskar Rao, working as Work Inspector in AP State Housing Corporation, Kurnool took two life insurance policies for a Sum Assured of Rs. 50,000 each on 20.09.1995 and 31.03.1997 respectively. He died on 23.03.2002;
- ii) According to the medical certificate no. 034837 dated 31.12.1998 issued by NIMS Hospital, Hyderabad, the life assured was under treatment in the hospital as in patient. The diagnosis arrived in the hospital was "Glioblastoma Multiforme";
- iii) The above admission and the relative treatment thereto was prior to taking insurance policy by the life assured;
- iv) The life assured was again admitted in NIMS Hospital, Hyderabad on 27.02.2002 under I.P. No.203005. The life assured was discharged from the hospital after death on 23.03.2002. The Discharge Record of the above hospital contains a remark "**Pt was operated for Rt. Temporal GBM 3 years ago**".
- v) According to the information furnished by the employer of the life assured in the Claim Form E of LIC, the life assured availed medical leave during the periods 01.11.1998 to 31.01.1999 (90 days). The nature of illness was **Head-ache & Vomitings etc Undergone Operation**. Incidentally, this was also prior to taking the insurance policy;
- vi) In the Declaration of Good Health form dated 30.11.1999 (which was received in the Branch Office on 10.01.2000) submitted by the insured, he had answered all the relevant questions in the negative though the life assured was fully aware of his admission and treatment in NIMS Hospital, Hyderabad, for Glioblastoma Multiform before revival of the insurance policies;
- vii) All the above events when put together chronologically make it absolutely clear that the life assured was suffering from Glioblastoma Multiforme disease even before revival of the policies;
- viii) According to Mosby's Medical Dictionary Edition for the year 2003 at Page No. 489 Glioblastoma Multiforme is "**a malignant, rapidly growing pulpy cystic tumor of the cerebrum or occasionally spinal cord. The lesion spreads with pseudopod like projections. It is composed of a mixture of monocytes, pyriform cells, immature and mature astrocytes, and natural ectodermal cells with fibrous or protoplasmic processes. Also called anaplastic astrocutoma, glioma multiforme**".
- ix) Sec.45 of the Insurance Act, 1938 is applicable under the claims. The admission and treatment thereto by the insured were well within his knowledge, and therefore, the life assured ought to have disclosed them truthfully to the insurer for evaluating the risk in the right perspective by the insurer. By suppressing the vital information, the insured did not give sufficient opportunity to the insurer and, thereby, violated the principle of **utmost good faith**. Therefore, it can be safely inferred that the life assured had the intention and purpose to keep this vital informations away from the insurer so as to induce the insurer to consider revival of the insurance policies somehow;

- x) In the circumstances of the case, therefore, the suppression of material facts by the life assured was very clear and the insurer was well within its right in repudiating the claim;
- xi) In view of the material evidences produced by the insurer as discussed above, the repudiation of the complainant's claim by the insurer has to be upheld as legal, correct and proper and hence it does not call for interference at my hands.
- xii) In the circumstances of the case on hand and in view of the fact that premia under the policies were received for about 2 years and 2 months after revival of both policies and in view of the fact that both policies have run for more than 6 years under policy no 651422102 and for more than 4 years under policy no. 651423491, I am of the view that it is just and proper to meet ends of justice to direct the insurer to make a payment of Rs.25,000, under both policies as ex-gratia, by invoking Rule 18 of the Redressal of Public Grievances Rules 1998, on humanitarian grounds and hence the insurer is directed to pay Rs.25,000, as ex-gratia, to the complainant;
- xiv) In the result, the complaint is dismissed. But the insurer is directed to pay an amount of Rs.25,000, as ex-gratia under all claims put together as Ex-gratia to the complainant in view of Rule 18 of the Redressal of Public Grievances Rules, 1998.

Hyderabad Ombudsman Centre

Case No. L-1127/2003-04

Smt. K. Padmamma

Vs.

Life Insurance Corporation of India

Award Dated 29.1.2004

Sri K.Bujjaiah, working as Work Inspector in Somasila Project, Bitragunta took a life insurance policy, as per details mentioned below:-

Policy No.	:	840657426
Date of Proposal	:	27.05.2000
Date of Acceptance/FPR	:	07.06.2000
Sum Assured	:	50,000
Plan & Term	:	14-20
Date of Revival	:	25.06.2001
Date of Death	:	05.03.2002
Date of Repudiation	:	17.03.2003
Cause of death	:	Heart Attack

Section 45 of Insurance Act 1938 is applicable under the claim

BACKGROUND

The life assured late Sri K.Bujjaiah, working as Work Inspector in Somasila Project, Bitragunta, took a Life Insurance Policy from Kavali Branch of Life Insurance Corporation of India under Nellore Division, as per the details furnished above. The policy was in a lapsed condition due to non-payment of premia due from 11/2000. The life assured got the policy revived on 25.06.2001 by submitting a declaration of good health form and paying the arrears of premia. The insured died on 05.03.2002 due to heart attack. Though the total duration of the claim was 1 year and 9 months, the duration from revival was just 8 months & 10 days. The claim under the policy was repudiated by LIC on the grounds of deliberate suppression of material facts, as the life assured

did not disclose his treatment for Epididymo Arthritis, prior to revival of the insurance policy. It was also alleged that the life assured was on medical leave for 30 days during 11.09.2000 to 10.10.2000, which was also prior to revival of his lapsed policy. Smt. K. Padmamma, the nominee and complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

DECISION:

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

- a) Section 45 of Insurance Act 1938 is applicable under the claim. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured, before repudiating the claim;
- b) The life assured took a life insurance policy in 05/2000 for a Sum Assured of Rs.50,000. The policy lapsed due to non-payment of premiums due from 11/2000. The life assured got the policy revived by paying the arrears of premia and also submitted a Declaration of Good Health Form. Later, the life assured died on 05.03.2002. The duration of the claim from the date of revival was 8 months and 10 days. Since it was an early claim, the insurer arranged for investigation of the claim;
- c) LIC repudiated the claim by setting aside the revival effected on 25.06.2001 on the ground that the life assured deliberately suppressed material facts relating to his health, prior to revival of the policy;
- d) In support of the repudiation, the insurer obtained only a Medical Certificate dated 10.10.2000 issued by Dr.K. Subramanyam Raju of Nellore. This doctor diagnosed the disease as "Epididymo Arthritis" and was treated by him as OPD patient from 11.09.2000. This doctor also reported in the said certificate that the life assured was admitted as an in-door patient from 11.09.2000 and discharged on 10.10.2000. But the same doctor issued a certificate dt. 23.02.2003 marked as "**whomsoever it may concern that K.Bujjaiah was treated by him as a OP patient on 11.09.2000 - Diagnosis: Epididymo Arthritis. He neither underwent operation nor admitted-So, we are not maintaining any medical records-except my OP prescription**";
- e) Though the employer of the life assured reported that the life assured availed leave on sick grounds, the employer did not furnish copy or copies of leave applications submitted by the life assured to them at the time of availing the leave;
- f) When Sec.45 of the Insurance Act, 1938 was applicable under the claim, the insurer must have obtained complete and full particulars of the treatments like prescriptions, indicating the medicines used by the insured, the relevant case sheets, details of reports relating to pathological tests, etc. so as to sustain their repudiation action. In the instant case, the doctor who attended on the life assured categorically reported that the life assured was treated as an. OP only and that they were not maintaining any records;
- g) Incidentally, the investigating official of LIC, who enquired into the bonafides of the claim reported that the life assured was maintaining good health and the death was sudden, due to heart attack;

- h) Further, I also do not find any nexus between the facts suppressed to the cause of death of the life assured on 05.03.2002. If the suppressed facts had a real nexus with the death of the life assured, the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before the Insurance Ombudsman to drive home its contentions;
- i) Having regard to the facts and circumstances, as discussed above and in the absence of any supportive/concrete evidence to the effect that the life assured had fraudulently suppressed material facts relating to his health prior to revival of the insurance policy, I am of the view that it is only fit and proper to direct the insurer to settle the claim under the above policy;
- j) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim under the policy by the insurer is not legal, correct, proper and justified.
- k) I, therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre

Case No. L-2048/2003-04

Smt. Ashwini A. Karadi

Vs.

Life Insurance Corporation of India

Award Dated 30.1.2004

Sri Ashok C.Karadi working in Navy as Lt.Cdr. (Indian Navy) took an insurance policy on his life, details of which are as under:-

Date of Proposal	:	28.03.1993
Date of Acceptance/FPR	:	28.03.1993
Policy No	:	630451258
Sum Assured	:	RS. 1,00,000
Plan & Term	:	108-25
Date of commencement of risk	:	28.03.1993
Date of Death	:	01.10.2002
Date of Rejection	:	21.11.2002
Cause of death	:	Accident-Aircraft Crash.

FACTS OF THE CASE

Sri Ashok C.Karadi, working as Lt.Cdr. in Indian Navy serving with INS Hamsa took a life insurance policy from City Branch-I of LIC under Belgaum Division. He died on 01.10.2002. The cause of death was reported to be accident (Aircraft Crash). As the policy does not cover accidental death, while the life assured was engaged in his official duty performing aircraft operations, the claim for accidental benefit was rejected by LIC of India, Belgaum. The claimant represented to Zonal Claims Review Committee, Hyderabad who have also upheld the decision of LIC D.O.Belgaum.

DECISION:

I heard the contentions of LIC as the complainant did not attend the hearing and also perused all the documents including the written submissions of the complainant, placed before me:

- i) The life assured, took a life insurance policy for a Sum Assured of Rs.1,00,000 in 03/1993 and died in an aircraft accident on 01.10.2002. The policy covered the risk of accident benefit and the life assured paid the extra premium also to cover the risk of accident benefit. LIC already paid the claim for Basic Sum Assured under the policy;
- ii) The life assured was employed in armed forces and died in action. As per the Certificate of Lt.Cdr, Squadron Commander (AOL), Dabolim, Goa-403 801, **“the life assured died during an aircraft accident at Dabolim Goa on 01.10.2002, whilst taking part in the Silver Jubilee Celebrations (25th anniversary of INAS 315). He was not piloting the aircraft”**;
- iii) LIC also obtained clarification from employer of the life assured viz. Commander, Squadron Commander, Goa vide their letter dated 15.01.2004 that the aircraft was authorised to carry service personnel only as passengers and the life assured was on duty on the day and travelling in the capacity of tactical observer;
- iv) The clause 10.2(v) of the policy reads as under: “The corporation shall not be liable to pay additional sum assured if the death of the life assured shall take place as a result of accident while the life assured is engaged in aviation or aeronautics in any capacity other than that of a fare-paying, part-paying or non-paying passenger in any aircraft which is authorised by the relevant regulations to carry such passengers and flying between established aerodromes, the life assured having at that time no duties on board the aircraft or required descent duties”
- v) Since death occurred while the life assured was engaged in performing his duty, as per the above clause and as per the clarifications furnished by the employer of the life assured the complainant is not eligible for accident benefit.

In view of the above provisions, the action of the insurer, in rejecting the claim for accident benefit is justified.

The Complaint is **“Dismissed”**

Hyderabad Ombudsman Centre

Case No. L-1136/2003-04

Smt. M. Anuradha

Vs.

Life Insurance Corporation of India

Award Dated 30.1.2004

Sri Maddina Rama Mohana Naidu, S/o Sri M. Krishnama Naidu, doing business and a resident of Nellore took a life insurance policy, as per details mentioned below: -

Policy No.	:	840586556
Sum Assured	:	Rs.2,00,000
Plan & Term	:	93-25
Date of commencement of risk	:	28.05.1999

Date of Acceptance of Risk : 31.05.1999
Date of Revival : 29.09.2001
Date of Death : 30.07.2002
Date of Repudiation : 02.02.2003
Cause of death : AIDS

FACTS OF THE CASE :

One Sri Maddina Rama Mohana Naidu, S/o Sri M. Krishnama Naidu, doing business at, and a resident, of Nellore took the above life insurance policy from City Branch-II, Nellore of LIC, under Nellore Division. The policy was in a lapsed condition due to non-payment of premium due from 02/2001. Subsequently, the policy was revived by the life assured on 29.09.2001, by submitting a Declaration of Good Health Form and also paid the entire arrears of premia. But the life assured died on 30.07.2002. The cause of death was reported to be AIDS. Smt. M. Anuradha, who is the nominee and complainant under the policy, lodged a claim with the LIC. But the claim was repudiated by LIC of India, citing the reason, that the life assured, while reviving his lapsed policy, gave false answers to certain questions in the declaration of good health form, submitted by him at the time of reviving his lapsed policy. It was also stated by the LIC that they held indisputable proof, to show that even before he revived his lapsed policy, he suffered from **AIDS and took treatment for the same**. He , however, did not disclose these facts in the declaration of good health form. Instead, he gave false answers to the relevant questions in the declaration of good health form. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of reviving his lapsed policy, the insurer repudiated the claim by setting aside the revival.

DECISION:-

I heard the contentions of LIC as the complainant did not attend the hearing and also perused all the documents, including the written submissions of the complainant, placed before me.

- i) The life assured took a life insurance policy in 05/1999 for a Sum Assured of Rs.2,00,000. Premiums under the policy from 02/2001 onwards were not paid. Hence the policy lapsed. The life assured got the policy revived on 29.09.2001, by paying the entire arrears of premia with interest and also submitted declaration of Good Health Form, duly executed by him. Later, the life assured died on 30.07.2002. The duration of the claim from revival was just 10 months and 8 days. Since it was a very early claim, the LIC arranged for investigation of the claim;
- ii) LIC repudiated the claim by setting aside the revival effected on 29.09.2001, as the life assured deliberately suppressed material facts relating to his health prior to revival of the policy. Since the policy did not acquire any paid up value as on the date of revival, as per the terms and conditions governing the policy and revival, nothing was payable to the life assured/complainant;
- iii) In support of their repudiation action, the insurer, obtained a statement given by Sri M. Gopal Naidu on 16.11.2002, addressed to LIC authorities. In the said statement, Sri Gopal Naidu informed that his brother (life assured) was suffering from AIDS, even before taking the insurance policy. It was also reported by him that the life assured suppressed the above fact at the time of taking the insurance policy. It was also informed by Sri Gopal Naidu that the life assured (his brother) himself executed a will;
- iv) LIC also obtained a copy of the **registered will** executed by the life assured himself on **21.06.1999**. This will was also registered by the District Registrar,

Nellore. According to this will, the life assured was suffering from AIDS. The life assured also clearly informed the procedure to be adopted for settlement of his entire property after his death. Apparently the life assured took the policy way back, for the first time, in 05/1999 to provide some monetary benefit to the surviving as he was aware of HIV +;

- v) According to the underwriting norms of LIC, had the life assured disclosed the fact he was suffering from AIDS since 06/1999 and was on treatment, at the time of revival of his lapsed policy, the insurer would have advised the life assured for obtaining some more special medical tests and depending upon the outcome of these tests, the question of considering revival would have been decided;
- vi) The policy was revived on 29.09.2001, while he was suffering from AIDS and was on treatment for the same. Therefore, the life assured knew that he was suffering from AIDS and taking treatment for the same. As such, it was well within his knowledge and the life assured ought to have disclosed the same to the insurer, at the time of revival of the policy by disclosing truthfully the facts in the declaration of good health form;
- vii) Even the investigating official who enquired into the bonafides of the claim also reported that the life assured was not keeping in good health at the time of revival of the policy and that the life assured was suffering from AIDS;
- viii) In the circumstances of this case, therefore, the suppression of material facts by the life assured is very clear. Revival of an insurance policy is considered to be a fresh contract between the parties and in the present case, the facts suppressed were obviously material to the fresh assessment of the risk. The fraudulent intention is also very clear, in that, the life assured had not disclosed the deadly disease of AIDS (which is incurable and even terminal as per extent of treatment) in the personal statement of good health form submitted by him for the purpose of revival of his lapsed policy, although he was very much aware of the same;
- ix) The insurer was well within his right to invoke Section 45 of the Insurance Act, 1938 in the present case and fulfilled all the three ingredients, as required under the said section and repudiated the claim;
- x) Therefore, I have to hold for the reasons as aforesaid and also in the light of the legal evidence available on record as referred to above, the repudiation of the claim, setting aside the revival, by the insurer has to be upheld on law as well as on facts and hence the repudiation of the claim by the insurer does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-2040/2003-04

Smt. T. Gangamma

Vs.

Life Insurance Corporation of India

Award Dated 1.1.2004

Sri D.K.Puttappa, Police Constable working in Viveknagar Police Station, Bangalore took a life insurance policy from Malleswaram Branch of Bangalore D.O.II, as per details furnished below.

Policy No. : 611901830

Date of Proposal : 10.12.1999
Date of Acceptance/FPR : 05.01.2000
Sum Assured : 1,00,000
Plan & Term : 14-15
Date of commencement
of risk : 05.01.2000
Date of Death : 11.09.2001
Date of Repudiation : 31.12.2002
Cause of death : IVC Obstruction,
Right Plueral Effusion

FACTS OF THE CASE

Sri D.K.Puttappa, Police Constable in Viveknagar Police Station, Bangalore took the above insurance policy from Bangalore Division II of LIC of India. The life assured died on 11.09.2001. The cause of death was reported to be IVC Obstruction, Right Plueral Effusion with severe anemia, Cirrhosis of Liver. Smt. T. Gangamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 31.12.2002 citing the reason that the life assured while proposing for insurance gave false answers to certain questions in the proposal forms. It was also stated by the LIC that they held indisputable proof to show that before he proposed for the above policy, he was operated for cholecystectomy. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policies, the claim was repudiated by LIC.

DECISION:-

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

- i) The life assured took the insurance policy on 05.01.2000 after executing the proposal for insurance on 10.12.1999. He died on 11.09.2001 in Sri Jayadeva Hospital, Bangalore. The Primary Cause of death was: **“IVC Obstruction”** and the Secondary Cause of death was: **“Right Pleural Effusion, Severe Anemia, Cirrhosis of Liver”**;
- ii) The insurer obtained evidence in the form of case history from Victoria Hospital, Bangalore, where the life assured was treated during the period 28.08.2001 to 06.09.2001. Also the insurer obtained Admission sheet from Sri Jayadeva Institute of Cardiology, Bangalore, the life assured took treatment there between 06.09.2001 and 11.09.2001 i.e. the date of death.
- iii) According to case sheet no 720681 of Victoria Hospital, Bangalore the life assured developed “a bout of haematemsis 3.5 years back with melena about 200-300 ml - * - *-”. The life assured was operated for Gallstone 3.5 years following which he developed abdominal distention, cord like dialation over side of chest and abdomen”. The duration of illness was reported as 3.5 years, which indicates that the life assured was not keeping in good health even before taking the policy in question.;
- iv) According to the treatment particulars obtained by the insurer in their claim forms B/B1 and discharge summary from Jayadeva Institute of Cardiology,

Bangalore, the life assured was admitted there during the period 06.09.2001 to 11.09.2001, under IP No.107969, the date of death of the life assured. The history of illness was reported as “**Cirrhosis of Liver and haematemesis 3 years back, cholecystectomy 3 years back, chest pain on and off**”. This clearly established the fact that the life assured was not keeping in good health at the time of taking the insurance policy;

- v) The life assured was a literate person, working as a Police Constable. The diseases with which he was suffering and the various admissions and treatments for them were all well within his knowledge and he ought to have disclosed to the insurer while effecting the proposals for insurance;
- vi) Incidentally, the suppression of material fact of his illness Cirrhosis of liver and other associated diseases since three years prior to his admission in Victoria Hospital, Bangalore and Sri Jayadeva Institute of Cardiology has nexus with the cause of death on 11.09.2001;
- vii) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured had undergone Cholecystectomy operation, and treatment for Haemate-misis, and other associated ailments including the fact that he was alcoholic, the insured should have disclosed these material facts while answering the relevant questions in the proposal forms. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- viii) Therefore, for the reasons as mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claims on the ground that the insured had fraudulently suppressed the material facts relating to this health condition at the time of effecting the insurance policies is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-2049-2003-04

Smt. T. V.Tara

Vs.

Life Insurance Corporation of India

Award Dated 1.1.2004

Sri T. V. Sridhar, an Electronics Engineer, employed in RELQ Software, Jayanagar, Bangalore, took a life insurance policy from City Branch-II, Shimoga of LIC under Udupi Division, as per details furnished below:-

Policy No.	:	621688754
Date of Proposal	:	11.07.2001
Date of Acceptance/FPR:	:	14.07.2001
Date of commencement	:	10.06.2001 (Dated Back Case)
Sum Assured	:	5,00,000
Plan & Term	:	112-25
Date of Death	:	02.03.2002

Date of Repudiation : 13.11.2002

FACTS OF THE CASE

Sri T. V. Sridhar, working as RELQ Software Engineer, Bangalore took a life insurance policy from City Branch-II, Shimoga of LIC of India, under Udupi Division. The life assured was an Electronics Engineer. The life assured died on 02.03.2002. The cause of death was reported to be Budd-Chiari Syndrome. Smt. T. V. Tara, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 13.11.2002, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 4-1/2 months before he proposed for the above policy, he had suffered from 'Budd-Chiari Syndrome' disease and took treatment for the same in Kasturba Hospital, Manipal, Karnataka. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC.

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

- i) Sri T. V. Sridhar, working as Associate Quality Assurance Engineer in RELQ Software, Bangalore took a Jeevan Shree Policy on 14.07.2001 for a Sum Assured of Rs.5,00,000. The life assured died on 02.03.2002. The cause of death was reported to be "**Budd-Chiari Syndrome**". The duration of the claim was reported just 8 months;
- ii) According to the treatment particulars obtained by the insurer in their claim form B1 from the Kasturba Medical College Hospital, Manipal, the life assured was admitted there on 26.02.2001 with complaints of abdominal distension-15 days and loss of appetite-10 days and was discharged on 03.03.2001. The diagnosis arrived by them was "**Budd- Chiari Syndrome**";
- iii) According to the discharge summary of Kasturba Hospital, Manipal, the life assured was admitted there on 26.02.2001 vide IP No.387176-Hospital No.01371968. The treatments given in the hospital and the various pathological tests undertaken for the life assured also indicated "**Ascites and moderate hepatomegaly**";
- iv) The life assured was also admitted in Bapuji Hospital, Shimoga in 12/2001, 01/2002 and 02/2002. It was reported that the life assured was a known patient of Budd-Chiari Syndrome associated with distension of abdomen, loss of appetite;
- v) According to the treatment particulars obtained by the insurer in their claim forms B/BI from Bapuji Hospital, Shimoga, the primary cause of death was: Budd-Chiari Syndrome and the secondary cause of death was (Ascites)-cardiac respiratory failure. It was also reported in these forms that the other diseases which co-existed were Ascites & Portal Hypertensive Gastropathy and the final diagnosis arrived in the hospital was "Vene-occlusive disease (Budd-Chiari Syndrome) of liver;
- vi) According to Mosby's Medical Dictionary 2003 (Page No.166), the implications of Budd-Chiari Syndrome are: **A disorder of hepatic circulation, marked by**

various obstruction that leads to liver enlargement, ascites, extensive development of collateral vessels and severe portal hypertension. Also called Chiari's Syndrome;

- vii) The admission and treatment by the life assured at Kasturba Hospital, Manipal was prior to taking the insurance policy;
- viii) The disease with which the life assured was suffering and the admissions and treatments for the same were all well within his knowledge especially, these occurred under four months before the date of proposal and he ought to have disclosed to the insurer while effecting the proposal for insurance;
- ix) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer. Though the insured had been suffering from Budd-Chiari Syndrome and other associated diseases, as reported by the hospital authorities before taking the insurance policy, the insured suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;
- x) Incidentally, the suppression of material fact of his illness Budd-Chiari Syndrome from which the life assured suffered and took treatment prior to taking the insurance policy has nexus with the cause of death on 02.03.2002;
- xi) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Budd-Chiari Syndrome prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- xii) Therefore, for the reasons as mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1063/2003-04

Smt. K. Suguna

Vs.

Life Insurance Corporation of India

Award Dated 4.1.2004

Sri K.Govinda Rao working as Radiographer in MGM Hospital took the following two policies:-

Policy No.	: 681894589	681906182
Date of Proposal	: 30.09.2000	28.03.2001

Date of Acceptance/FPR:	28.09.2000	09.07.2001
Sum Assured	: 50,000	1,00,000
Plan & Term	: 14-16	106-15
Date of Death	: 10.08.2002	
Date of Repudiation	: 31.12.2002	
Cause of death	: Sudden heart attack	

BACKGROUND

Sri K.Govinda Rao, working as Radiographer in MGM Hospital, Warangal took the above insurance policies from Warangal Branch under Warangal Division. The life assured died due to sudden heart attack on 10.08.2002. The insured was first admitted in MGM Hospital, Warangal on 13.12.1997 vide IP No.22261 and discharged on 22.12.1997, after taking treatment. The diagnosis arrived at this hospital was Lateral Wall Myocardial Infarction + HTN. He was also admitted there in 5/98 (06.05.98 to 13.05.1998) and took treatment. The life assured, according to his employer, availed leave on sick grounds during the period 06.05.1998 to 12.06.1998 and 30.11.98 to 27.01.1999. Again, the life assured was admitted in NIMS Hospital, Hyderabad on 30.11.1998 had undergone Coronary Artery Bypass Grafting Surgery on 08.12.1998 and was discharged on 14.12.1998. All the above admissions and treatments therefor were prior to taking the insurance policies in question. Smt. K.Suguna, who is the nominee under the policies, lodged a claim with the LIC for settlement of the two claims. But the claims were repudiated by LIC holding that the life assured deliberately suppressed the above material facts relating to his health while taking the insurance policies.

DECISION :

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

- (i) The life assured late K.Govinda Rao took two insurance policies viz., Pol.No.681894589 on 28.09.2000 for a Sum Assured of Rs.50,000 and 681906182 on 09.07.2001 for a Sum Assured of Rs.1,00,000 respectively. He died on 10.08.2002 due to sudden heart attack. The insurer repudiated both the claims on 31.12.2002, as the life assured deliberately suppressed material facts relating to his health;
- (ii) According to the hospital records of MGM Hospital, Warangal, the insured was admitted in the hospital on 13.12.1997 and took treatment for Lateral Myocardial Infarction + Hypertension and was discharged on 23.12.1997. This admission and treatment thereto was prior to taking the insurance policies;
- (iii) Again, the insurer obtained hospital records from NIMS Hospital, Hyderabad according to which, the life assured was admitted there on 30.11.1998 and had CABG (Coronary Artery Bypass Surgery) and was discharged on 14.12.1998. The hospital authorities diagnosed the disease as Coronary Artery Disease, Triple Vessel Disease. Incidentally, this admission and treatment by the insured was also prior to taking the insurance policies;
- (iv) Policy No: -681894589: -Now it needs to be mentioned here that the 2nd part of Sec.45 of the Insurance Act 1938 is applicable under this policy. In this connection, it is useful to refer to the provisions contained in Sec.45 of the Insurance Act, 1938. The said section, inter-alia, provides that no policy of insurance effected after the coming into force of this Act, after the expiry of two years from the date on which it was effected be called in question by the

insurer on the ground that a statement in the proposal for insurance or any report of a Medical Officer or a reference or a friend of the insured or any other document leading to the issuance of the insurance policy was inaccurate or false unless the insurer shows that such a statement was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The insurer must prove all the above three ingredients before considering repudiation of the claim in question;

- (v) According to the underwriting norms of LIC as obtained from their Corporate Office, had the life assured disclosed the above material facts, they would have called for: details of operation, fresh 2D Echo, Stress test, lipid profile and Blood Sugar for deciding the offer. The insured had already undergone medical examination by their authorized medical examiner who had recommended the life assured to be fit for insurance. In fact, the ECG taken in 3/2001 for considering the 2nd policy also revealed that the same was well within the normal limits. Further, according to the underwriting norms of LIC, policies are not totally denied to persons who have undergone CABG. Therefore, by non-disclosing the material facts, the life assured did not gain anything special vis-a-vis other policyholders. There is, therefore, certainly suppression of material facts by the life assured. To this extent, the insurer proved successfully suppression of material facts. It is pertinent to mention here that the life assured also survived around three years from the date of operation and had also paid premia for about 2 years. In view of the above facts, I am of the opinion that although there was suppression of material facts by the insured, it could not be established beyond doubt that the insured did the same with fraudulent intention, especially when the medical and other allied reports of LIC confirmed that he was medically fit for insurance. Hence, the repudiation action of the insurer could not be justified under this claim, as the insurer could not prove fraudulent intent on the part of the life assured.
- (vi) Policy No.681906182:-Under this policy, the first part of the Sec.45 of the Insurance Act, 1938 is applicable. The insurer can consider repudiation of a claim if there is any untrue averment by the insured in any of the documents leading to issue of the insurance policy;
- (vii) Incidentally, the policy is covered under warranty clause. The insured is well aware of the operation he had undergone and he ought to have disclosed the same to the insurer. By suppressing the vital material facts relating to his health, he did not give sufficient opportunity to the insurer for assessing the risk in the right perspective. The repudiation of the claim was also done within 2 years from the date of issue of the policy.
- (viii) Based on the available medical evidences submitted by the insurer, the repudiation action of the insurer is perfect and justified and does not call for my interference and the complaint is, therefore, dismissed under this policy.

In view of the above reasons, the complaint under Pol.No. 681894589 for Rs.50,000 is allowed while complaint under Policy No.681906182 for Rs.1,00,000 issued in 7/2001 is dismissed.

Hyderabad Ombudsman Centre

Case No. L-2003/2003-04
Smt. Honnakka
Vs.
Life Insurance Corporation of India

Award Dated 4.1.2004

Sri Rama Bhujang Shinde, agriculturist from Murkwad Village of Haliyal Taluk under Karwar District in Karnataka took a New Janaraksha Policy as per details mentioned below: -

Policy No. : 633221007
Date of Proposal : 18.05.2001
Date of Acceptance/FPR : 21.05.2001
Sum Assured : 25,000
Plan & Term : 91-20
Date of commencement
of risk : 21.05.2001
Date of Death : 28.06.2001
Date of Repudiation : 28.01.2002
Policy issued under : Non-Medical Scheme
Cause of death : Severe Fever

Sec.45 of the Insurance Act 1938 is not applicable under the claim

BACKGROUND

One Sri Rama Bhujang Shinde, agriculturist and resident of Murkwad (Post) of Haliyal Taluk under Karwar District took the above New Janaraksha insurance policy from Dandeli Branch under Dharwad Division. The life assured, while submitting the proposal for insurance, declared his age as 39 years and obtained the insurance policy although he was aged 56 years, as on the date of his executing the proposal for insurance on 18.05.2001. In view of suppression of the above material fact relating to his age by the life assured at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:

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

- i) The life assured took a New Janaraksha Policy for Rs.25,000 on 21.05.2001 and died due to severe high fever on 28.06.2001. The duration of the claim was just 1 month & 07 days. The claim was repudiated by the insurer on 28.01.2002 as the life assured understated his age, making the policy as void ab-initio;
- ii) The proposal for the above New Janaraksha Policy was executed by the life assured on 18.05:2001 under Non-medical General Scheme (without undergoing Medical Examination by authorised medical examiner of LIC). In the said proposal, the insured declared his age as 39 years and based on his declaration, the policy was issued by LIC;
- iii) According to the underwriting norms of LIC, the policies under New Janaraksha Plan can be considered by LIC under Non-medical Scheme upto age 40 years.

For age beyond 40 years, the policies under this plan could be considered under Medical Scheme only;

- iv) In support of their repudiation action, the insurer obtained the birth certificate of the life assured by the Government authorities. According to this certificate, the date of birth of the life assured was 24.02.1945. On the basis of this birth certificate, the age of the life assured as on the date of taking the insurance policy was 56 years. The life assured, therefore, understated his age by 17 years. Even according to the voters' list obtained by the insurer, the age of the life assured was 64 years. There is, therefore, definitely understatement of age by the insured;
- v) According to the underwriting norms of LIC, had the life assured declared his age correctly while taking the insurance policy, this policy would not have been issued under Non-medical Scheme, as the maximum age eligible for this policy under Non-medical Scheme was 40 years;
- vi) Section 45 of the Insurance Act, 1938 is not applicable under this claim. Therefore, the LIC could repudiate a claim if there is any suppression of material fact without establishing fraud on the part of the life assured. The policy was issued under Non-medical Scheme. Hence the information given by the deceased life assured in the proposal form is of much relevance, while underwriting the risk. By suppressing the fact regarding ' his age in the proposal form, the life assured did not give reasonable opportunity to the insurer to come to correct judgement. Hence, there was a breach of good faith on the part of the life assured;

In view of the reasons mentioned above and in the light of the evidence available on record, the repudiation of the claim by the insurer on the ground that the life assured had suppressed material information is justified and does not warrant any interference at the hands of the Insurance Ombudsman.

In the result, the complaint is dismissed.

Hyderabad Ombudsman Centre

Case No. L-2037/2003-04

Sri Saifan Ali

Vs.

Life Insurance Corporation of India

Award Dated 4.1.2004

Sri Abdul Rahim, Businessman from Gulbarga Town in Karnataka took a Jeevan Shree Policy as per details mentioned below: -

Policy No.	: 660600423
Date of Proposal	: 07.01.1999
Date of Acceptance/FPR	: 12.01.1999
Sum Assured	: 5,00,000
Plan & Term	: 112-20(12)
Date of commencement of risk	: 12.01.1999
Date of Death	: 31.10.2000
Date of Repudiation	: 03.09.2001

Policy issued under : Medical Scheme

Cause of death : Chest Pain

BACKGROUND

One Sri Abdul Rahim. Businessman and resident of Gulbarga, Karnataka State took the above Jeevan Shree insurance policy from Gulbarga Branch II under Raichur Division. The life assured, while submitting the proposal for insurance, declared his age as 50 years and obtained the insurance policy. He was found by the insurer to be aged 54 years, as on the date of his executing the proposal for insurance on 07.01.1999. In view of alleged suppression of the material fact relating to his age by the life assured at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:

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

- i) Sec.45 of Insurance Act 1938 is applicable under the claim. The implication is that the insurer can consider repudiation of the claim if there is suppression, of material facts relating to consideration of insurance besides fraudulent intention on the part of the life assured.
- ii) The life assured took a Jeevan Shree Policy for Rs.5,00,000 on 12.01.1999 and died due to chest pain on 31.10.2000. The duration of the claim was 1 year 9 months & 19 days. The claim was repudiated by the insurer on 03.09.2001 on the ground that the life assured understated his age, making the policy as void ab-initio;
- iii) The proposal for the above Policy was executed by the life assured on 07.01.1999 under Medical scheme. Medical Examination was conducted by authorised medical examiner of LIC. In the said proposal, the insured declared his age as 50 years and based on his declaration, the policy was issued by LIC;
- iv) According to the underwriting norms of LIC, the policies under Jeevan Shree can be considered by LIC under and upto age 50 years for a policy term of 20 years. For age beyond 50 years, the policies under this plan could be considered restricting the maturity age to 70 years;
- v) In support of their repudiation action, the insurer obtained the birth certificate of the life assured issued by the Asif Gunj School, Gulbarga. According to this certificate, the date of birth of the life assured was 04.03.1945. On the basis of this birth certificate, the age of the life assured as on the date of taking the insurance policy was 54 years. There is evidence to say that the life assured was held to have understated his age by 3-4 years, as according to the voters' list obtained by the insurer, the age of the life assured was 53 years. According to the underwriting norms of LIC, had the life assured declared his age correctly while taking the insurance policy, this policy would have been issued under Medical Scheme and Tele Report would have been called for. Besides the above, the insurer would have limited the term of policy to adjust the maturity to 70 years;
- vi) However, the age proof i.e.declaration of age, was in the form of a "True extract from evidence of age Submitted". The authorized agent of Life Insurance Corporation of India countersigned the said true extract. The said agent rendered a certificate at the end of the form duly certifying that, the information regarding date of birth as correct and that the same

was extracted from the original record of evidence of age. The insurer, having accepted the declaration of age, the authenticity of which was not questioned at the time of execution of proposal, has now taken a repudiation action having regard to the certificate issued by Asif Gunj School. It is not denied that the information about the life assured's schooling was given by life assured himself at the time of taking the policy. He would not have furnished this if he was aware that his age was 54 years and if he intended to commit fraud on the insurer. Thus, it is not proved beyond reasonable doubt that the life assured suppressed material facts with fraudulent motive.

vii) Hence in the interest of natural justice, I am of the view that the insurer should accept the claim for full sum assured under the policy, subject to recovery of difference of premium on account of understatement of age on the part of the life assured.

In view of the reasons mentioned above, and, in the light of the evidence available on record, the repudiation of the claim by the insurer on the ground that the life assured had suppressed material information is not justified and I hereby order that the claim should be settled for full sum assured of 5 lakhs. The insurer is advised to recover the premium for the understatement of age made by the life assured.

In the result, the complaint is admitted subject to the above instructions.

Hyderabad Ombudsman Centre

Case No. L-1115/2003-04

Sri. N. Venkata Koteswara Rao

Vs.

Life Insurance Corporation of India

Award Dated 7.1.2004

Smt. N. Aruna Kumari, housewife, resident of Kammagadda village, under Gurzala Mandal, took a life insurance policy as per details mentioned below: -

Policy No.	: 672525755
Date of Proposal	: 15.08.2001
Date of Acceptance/FPR	: 28.07.2001
Sum Assured	: 1,00,000
Plan & Term	: 14-30
Date of commencement of risk	: 28.07.2001
Date of Death	: 05.05.2002
Date of Repudiation	: 31.03.2003
Cause of death	: Heart Attack

BACKGROUND

One Smt. N.Aruna Kumari, Housewife, resident of Kammagadda Village under Gurzala Mandal took the above insurance policy from Gurzala Branch under Machilipatnam Division. The life assured died on 05.05.2002 due to sudden heart-attack. The LIC repudiated the claim made by the complainant citing the reason that the life assured, while taking the policy on 15.08.2001 did not disclose that he was a known diabetic since 2 years and suffered from diabetes and renal failure since 2 years. It was also alleged that the life assured gave false answers to certain questions in the proposal form. The LIC further claimed that they held indisputable proof to show that the life assured was known to be a diabetic for 2 years prior to the date of proposal. He however, did not disclose these facts in the form of personal statement of health. Instead he gave

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

DECISION:

I have perused the papers placed before and heard the contentions of both the parties.

- i) Sec.45 of Insurance Act, 1938 is not applicable to claim. The implication is that the insurer can consider repudiation of claims if there is suppression of material facts on the part of the life assured.
- ii) The only evidence submitted by the insurer is in the form of a statement made by Dr. B. Sitharamyya, Srinivasa Nursing Home, Dachehalli. The doctor in his undated statement mentioned that the nature of the disease with which life assured suffered was "Diabetic Renal failures since 2 years".
- iii) The life assured was examined by the panel medical examiner of the insurer before the risk under the policy was accepted. The medical examiner did not find any adverse feature in the health condition of the life assured at the time of taking the insurance policy.
- iv) The insurer conducted investigation into the bonafides of the claim. The investigation official of the insurer reported that the life assured was treated by one Dr. K.Hari Babu, Sai Teja Nursing Home, Bus Stand, Guntur. However, the insurer could not support their statement with any concrete evidence.
- v) The insured did not secure and submit any evidence to support their contention that the life assured was indeed a diabetic before taking the policy and a specific line of treatment was recommended to her. In absence of the details regarding the alleged "diabetic renal failure since 2 years", it is not justified to repudiate a claim taking shelter under breach of utmost good faith/ warranty clause. Thus I find that there was no malafide intention on the part of the life assured.
- vi) In view of the above, I am of the view that ends of justice would be adequately met if the insurer accepts the claim for a sum Rs.25,000 in total under the policy under Ex-gratia.
- vii) I therefore, direct the insurer to settle the claim for a total sum of Rs.25,000 under policy Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

The complaint is allowed as Ex-gratia for a total amount of Rs.25,000 under the above policy.

Hyderabad Ombudsman Centre

Case No. L-1172/2003-04

Sri. P. V. Subba Reddy

Vs.

Life Insurance Corporation of India

Award Dated 23.1.2004

Smt. P. Sarojamma, W/o P.Govinda Reddy, housewife and resident of Cheruvumundarapalle village in Chittoor District took a life insurance policy from

Branch- 1 of Tirupati Branch of Life Insurance Corporation under Nellore Division, as per details furnished below:-

Policy No. : 840322764
Date of Proposal : 16.03.1998
Date of Acceptance/FPR: 31.03.1998
Date of commencement : 28.03.1998
Sum Assured : 50,000
Plan & Term : 14-15
Date of Revival : 28.05.2002
Date of Death : 19.08.2002
Date of Repudiation : 31.01 .2003

Smt. P. Sarojamma, W/o Sri P. Govinda Reddy, housewife and resident of Cheruvumundarapalli Village in Chittoor District took a Life Insurance Policy from Tirupati Branch I of LIC of India, under Nellore Division. The life assured died due to motions and vomitings / cancer on 19.08.2002. The policy was in lapsed condition due to non-payment of premium from 12/2000. The life assured got the policy revived on 28.05.2002 by paying arrears of premium and also complying with health requirements prescribed by LIC. Sri P. V. Subba Reddy, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.01.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about one year before she proposed for the above policy, she had suffered from 'Carcinoma cervix' for which she had consulted a medical man and had taken treatment .in a hospital. She, however, did not disclose these facts in the proposal. Instead she gave false answers. Finding the life assured to be guilty of suppression of material facts relating to her health at the time of taking the insurance policy, the claim was repudiated by LIC. Sri P. V. Subba Reddy, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

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

- i) Smt P. Sarojamma, housewife and resident of Cherovumundarapalle village in Chittoor District took endowment insurance policy on 16.03.1998 for a Sum Assured of Rs.50,000. The life assured died on 19.08.2002. The cause of death was reported to be "**Motions/Vomitings/ Cancer**". The duration of the claim from the date of revival was reported just 8 months;
- ii) According to the treatment particulars obtained by the insurer in their claim form B 1 from the S. V Institute of Medical Science, Tirupati the life assured was admitted there during the period from 29.04.2002 to 04.05.2002 and from 04.06.2002 to 26.06.2002. The claim form further contained a statement. "**Received Radio Therapy at SVRRGGH, CA No 97-100 dated 30.01.1997**". It was also mentioned in the claim form B1 that the life assured was a "**Known case of Carcinoma Cervix, underwent treatment at Neurology SVIMS as case of Right Supraclavicular Lymph**". The diagnosis arrived by them was "**Carcinoma Cervix**";

iii) The Proposal for Assurance dated 16.03.1998 the life assured had answered the following questioned as under-noted: -

Q.No.	Answers
11 (a) During the last five years did you consult a medical practitioner for any ailment requiring treatment for more than a week?	No
(b) Have you ever been admitted into any hospital or nursing home for general checkup, observation, treatment or operation	No
(c) Have you remained absent from place of work on grounds of health during the last five years?	No
(d) Are you suffering from or have you ever suffered from ailment pertaining to Liver, Stomach, heart, lungs, kidneys, brain or nervous system?	No
(e) Have you ever suffered or are you suffering from any disease like Diabetes, tuberculosis, High B.P., Low B.P. Cancer, Epilepsy, Hernia, Hydrocele, Leprosy or any other Disease?	No
(f) Do you have any bodily defect or deformity?	No
(g) What has been your usual state of health?	Good
iv) The above medical statement in claim form BI shows that the insured was suffering from Carcinoma Cervix since 1997 and she was treated for Radio Therapy at SVRRGGH Hospital, Tirupati under CA No.97-100 dated 30.01.1997 i.e. before and after the proposal for insurance and also as on the date of revival of the policy. But the Insured had given negative answers regarding her health condition and hospitalization to the various questions in the proposal dated 16.03.1998 and in the declaration of good health form dated 28.05.2002, though the life assured was fully aware of the fact that she was suffering from Carcinoma Cervix and was taking treatment for the same. Or in other words, she concealed a material fact relating to her health condition from the insurer so as to induce the insurer to accept the aforesaid policy and also to revive her aforesaid lapsed policy at later date.	
v) In this connection it is profitable to refer to the provisions contained in Section 45 of the Insurance Act 1938. The said section provides inter-alia that no policy of Life insurance effected after the coming into force of this Act after the expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issue of the insurance policy was inaccurate or	

false unless the insurer shows that such a statement was on material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts which was material to disclose. The said provision lays down three conditions for the applicability of the second part of the Section 45. (1). Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2). The suppression must have been fraudulently made by the insured. (3). The insured must have known at the time of making the statement that it was false or he/she suppressed facts which it was material to disclose.

- vi) The contention of the complainant that “ the mere signature of a insured person who does not understand English on the forms of question with the binding declaration in English is not enough to prove his knowledge of what he was signing and to bind literally and irrevocably to such a contract without examination as a witness of person who interpreted the questions to him and recorded the answers”, does not hold water as the Agent of the insurer Sri J. Gurrappa Reddy had signed on the part of the proposal for insurance which confirms that all the questions were brought to the notice of the insured. Further the proposal form also contained a declaration from the life assured signed on the declaration that, she had affixed her signature after having understood the facts mentioned in the proposal form. It is worthwhile to note the general principle that a party of full age and understanding is normally bound by his/her signature to a document whether he/she reads it or understands it or not.
- vii) The claim being early, the LIC conducted investigation into the bonafides of the genuineness of the claim. According to the Annexure to the Investigation Report submitted by the investigating official it was observed that the insurance agent, who canvassed insurance policy to the life assured, was fully aware of the health condition of the life assured. The life assured was also aware of her health condition. In the light of this revelation it is suggested that the LIC may take suitable action on the insurance agent who was also instrumental in playing on the insurer.
- viii) The insured had not disclosed her illness relating to **Carcinoma Cervix**. There is fairly certain nexus between this illness and the cause of death. There is therefore, fraudulent suppression of material facts relating to her health condition on the part of the life assured. The life assured after knowing fully well that something untoward might happen had got the insurance policy revived by suppressing the material facts relating to her serious illness thus rendering the revival void. Therefore, I have to hold for the reasons as aforesaid, and also in the light of the medical evidences available on record as referred to above, that the repudiation of the complainant's claim for the assured sum and its consequential benefits under the aforesaid insurance policy by the insurer on the ground that the insured had fraudulently suppressed the material facts relating to the health condition of the insured at the time of proposal and also at the commencement of the aforesaid insurance policy has to be upheld as sustainable on law as well as on facts and hence; The repudiation of the complainant's claim for the assured sum and its ancillary benefits by the insurer does not warrant any interference at my hands or, in other words, the complainant is not entitled to get the assured sum and its ancillary benefits from the insurer under the aforesaid insurance policy.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1213/2003-04

Smt. K. Chittemma

Vs.

Life Insurance Corporation of India

Award Dated 23.1.2004

Sri K. Ravi, agriculturist and doing cloth business took a life insurance policy from Puttur Branch of Life Insurance Corporation under Nellore Division, as per details furnished below: -

Policy No.	:	840467913
Date of Proposal	:	30.03.1998
Date of Acceptance/FPR	:	30.03.1998
Date of commencement	:	28.03.1998
Sum Assured	:	1,00,000
Plan & Term	:	106-15
Date of Revival	:	04.01.2003
Date of Death	:	16.01.2003
Date of Repudiation	:	26.03.2003

FACTS OF THE CASE

Sri K. Ravi, agriculturist and doing cloth business, resident of S. R. Puram Village in Chittoor District took a Life Insurance Policy from Puttur Branch of LIC of India, under Nellore Division. The life assured died due to stomach pain on 16.01.2003. The policy was in lapsed condition due to non-payment of premium from 03/2002 acquiring paid up value of Rs. 23,200.00. The life assured got the policy revived on 04.01.2003 by paying arrears of premium and also complying with declaration of good health dated 30.12.2002 as prescribed by LIC. Smt. K. Chittemma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated the claim on 26.03.2003, citing the reason that the life assured, while applying for revival of his insurance policy on 30.12.2002, gave false answers to certain questions in the declaration of good health form. It was also stated by the LIC that they held indisputable proof to show that during the month of 10/2002 i.e. before he applied for revival of the above policy he had suffered from 'Pancreatitis' for which he had consulted a medical man and had taken treatment in a hospital in the month of 10/2002. He, however, did not disclose these facts in the declaration of good health form. Instead he gave false answers. Finding the, life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claim was repudiated by LIC. However, the LIC allowed the paidup value of Rs.23,200 accrued under the policy. Smt. K.Chittemma, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

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

- i) Section 45 of Insurance Act 1938 is applicable to the claim. The implication is that the insurer can consider repudiation of a claim provided there is not only

suppression of material facts but also fraudulent intent on the part of the life assured;

- ii) The life assured took Jeevan Surabhi insurance policy from the insurer on 30.03.1998 for a Sum Assured of Rs.1,00,000. The mode of payment of premium was yearly. The policy lapsed due to non-payment of yearly premium due 3/2002. The life assured got his policy revived on 04.01.2003 by paying arrears of premium with interest and also submitting the declaration of good health satisfactory to LIC;
- iii) The life assured died on 16.01.2003. The cause of death was reported to be "**Stomach Pain**". The duration of the claim was just 12 days from the date of revival of the policy. Since it was a very early claim, they arranged for investigation of the claim;
- iv) Their investigation revealed that the life assured was admitted in Sri Ramachandra Hospital, Porur, Chennai on 01.10.2002 vide in-patient no. 301777 and took treatment in the hospital as in patient upto 24.10.2002. The life assured was admitted in the hospital with complaints of stomach pain. The diagnosis arrived by the hospital authorities was "**Acute Pancreatitis**". The history / complaints at the time of admission was furnished to the hospital authorities by the life assured himself;
- v) The admission and treatment in Sri Ramachandra Hospital, Chennai during the period 01.10.2002 to 24.10.2002 was prior to revival of policy. The policy was revived on 04.01.2003, just 3 months after his admission and treatment in the hospital. This makes it clear that the life assured was fully aware of his admission and treatment in the hospital when he revived his policy. The life assured ought to have disclosed truthfully to the insurer before reviving the policy by answering relevant questions in the declaration of good health form. Instead, he gave false answers and thereby got his policy revived. In support of their contentions, the LIC obtained treatment particulars in their claim form B1 and they also obtained In-Patient bill;
- vi) According to Mosby's Medical Dictionary - 2003 Page No.831, the implications of Pancreatitis & Acute Pancreatitis are: -
 - a. Pancreatitis: an inflammatory condition of the pancreas that may be acute or chronic.
 - b. Acute Pancreatitis:- is generally the result of damage to the biliary tract, as by Alcohol, trauma, infectious disease or certain drugs. It is characterized by severe abdominal pain radiating to the back, fever, anorexia, nausea and vomiting. There may be jaundice if the common bile duct is obstructed. The development of the pseudocysts or abscesses in pancreatic tissue is severe complication. Treatment includes nasogastric suction to remove gastric secretions. To prevent any stimulation of pancreas, nothing is given by mouth.
- vii) According to their underwriting norms, had the life assured disclosed the fact relating to pancreatitis at the time of revival of the insurance policy, they would have postponed the revival of the policy for 2 years. In other words they would not have revived the policy immediately;
- viii) The insured had not disclosed his illness relating to **Pancreatitis**. There is therefore fraudulent suppression of material facts relating to health condition on the part of the life assured. The life assured after knowing fully well that

something untoward might happen had got the insurance policy revived by suppressing the material facts relating to his serious illness thus rendering the revival void. Therefore I have to hold for the reasons as aforesaid and also in the light of the medical evidences available on record as referred to above, that the repudiation of the complainant's claim for the assured sum and its consequential benefits under the aforesaid insurance policy by the insurer on the ground that the insured had fraudulently suppressed the material facts relating to the health condition of the insured at the time of revival of the aforesaid insurance policy has to be upheld as sustainable on law as well as well as on facts and hence, the repudiation of the complainant's claim for the assured sum and its ancillary benefits by the insurer does not warrant any interference at my hands or in other words, the complainant is not entitled to get the assured sum and its ancillary benefits from the insurer under the aforesaid insurance policy. Nevertheless, as the insurer offered to pay Rs.23,200.00 (Rs. Twenty three thousand two hundred only), being the acquired paid up value under the policy, I would like to enhance the offer to Rs.25,000 on humanitarian grounds and direct the insurer to pay the sum of Rs .Twenty five thousand only.

The complaint is, allowed under Ex-gratia under Rule 12 of RPG Rules 1998.

Hyderabad Ombudsman Centre

Case No. L-1227/2003-04

Smt. Chintala Lachamma

Vs.

Life Insurance Corporation of India

Award Dated 5.2.2004

Sri Chintala Maisaiah, a businessman and resident of Mancherial, took a life insurance policy as per details mentioned below: -

Policy No.	: 683007926
Date of Proposal	: 12.02.2001
Date of Acceptance/FPR	: 27.02.2001
Sum Assured	: Rs. 25,000
Plan & Term	: 91-15
Date of commencement of risk	: 27.02.2001
Date of Death	: 18.01.2002
Date of Repudiation	: 08.11.2002
Policy issued under	: Non-Medical Scheme
Cause of death	: Acute Ethyl Poisoning

FACTS OF THE CASE

One Sri Chintala Maisaiah, a businessman and resident of Mancherial took a New Janaraksha life insurance policy from Mancherial Branch of LIC under Karimnagar Division. The policy also covered risk of accidental benefit, in the event of death of the life assured in an accident. The life assured died on 18.01.2002. When Smt. Chintala Lachamma, nominee and complainant, preferred claim under the policy with the LIC, the LIC rejected/repudiated the claim for Accidental Benefit, on the ground that the death of the life assured was caused by drowning in the canal as result of consumption of alcohol.

DECISION:

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

- a) The life assured had taken a New Janaraksha Policy in 02/2001 for a Sum Assured of Rs.25,000. This policy covered the risk of Accident Benefit also. The life assured died on 18.01.2002. LIC already settled the claim for Basic Sum Assured. LIC repudiated/rejected the claim for accident benefit, as the life assured was reported to be under the influence of intoxicating liquor;
- b) The complainant i.e. the wife of life assured got F.I.R (First Information Report) registered in Mancherial Police Station on 16.01.2002. According to the statement of the complainant recorded, " the life assured left his house on 10.01.2002 around 5.00 P.M to buy vegetables and rice"on his bicycle. But he did not return to his house. They searched for the life assured at all places but his whereabouts could not traced. Later the bicycle and the rice bag were found in front of MRO office on the college road near toddy shop". She requested the police authorities to cause investigation to trace her husband. The police authorities registered the case on 16.01.2002 under section "Man missing".
- c) The panchayatdars in their report dated 18.01.2002 opined that the life assured left his house on 10.01.2002 around 5.00 P.M to buy rice and vegetables. He was missing from 10.01.2002. On 18.01.2002 his body was traced in a drainage canal, which flows, by the side of NTR Nagar. The Panchayatdars further opined that it appeared as though the life assured in an intoxicated condition fell into the drainage canal.
- d) The police authorities submitted a final report on the case registered by them in the court of Second Class Executive Magistrate at Mancherial. According to the final report,
 - i) The police authorities at the first instance registered a case in Cr.No. 15/02 u/s Man missing. The police made efforts to locate the whereabouts of missing man. On 18.01.2002 the dead body of the missing man was found in well water in the outskirts of NTR Nager Mancherial and subsequently the section of Law was altered to 174 Cr.P.C.
 - ii) The scene was visited and examined and the police recorded the statements of witnesses present there. The dead body was in highly putrefied condition as such medical officer conducted PME there itself after inquest. The viscera contents and hyoid bone preserved by medical officer have been sent to the experts for opinion. Allegedly based on the opinions of experts the medical officer issued detailed PME report that the deceased died due to acute ethyl alcohol poisoning.
 - iii) Investigation of the case revealed that on 10.01.2002 at 5.00 P.M, the deceased Chinthala Maisaiah, r/o NTR Nagar, Mancherial left his house to get vegetables and rice from the market. But he did not return to the house, consumed alcohol, left his cycle and rice bag near by Toddy shop at MRO office Mancherial, did not locate the way to go to his house, and fell down in a well water in the outskirts of NTR Nagar, Mancherial.

- iv) The Sub-Inspector of Police, P.S. Mancherial further stated to the Magistrate that he be permitted to refer the case as “death due to excessive consumption of ethyl alcohol leading to poisoning”. No foul play was suspected.
- e) The question is whether the life assured was drowned in a canal/ well owing to consumption of alcohol, as this is the ground on which the insurer repudiated the complainant’s claim. As the body of the life assured was found in a canal, it can not be doubted that the life assured died due to drowning. At any rate, even the insurer did not question the finding that life assured died due to drowning. They only point out to the police report, panchayatdars statement, and medical report to say that the life assured was intoxicated due to heavy drinking of liquor (toddy) when he fell into the drain/canal and died. The police and the panchayatdars sighted the dead body eight days after the life assured was reported to be missing. They have not cited, much less examined, any eyewitness who saw the life assured drinking heavily, missing his way and falling into the well to be drowned. They relied on hearsay that the life assured was a habitual drunkard, noticed the abandoned cycle, rice, etc., found later the dead body and weaved a plausible story. But nothing is proved beyond reasonable doubt. About the medical report, the insurer could not produce even a copy of the expert’s report referred to. The medical officer’s opinion about ethyl alcohol poisoning was to “ the best of her knowledge”. This is not credible because the dead body was found after a week in highly decomposed condition and it can not lend itself to any authentic finding about ethyl alcoholic poisoning even if examined by experts. Further, the expert’s report is not placed before me. In the result, I accord benefit of doubt to the complainant.

In view of the above facts, the rejection/repudiation of the claim for accident benefit by the insurer is not correct and also not proper. Hence, I am of the opinion, that the insurer should allow the claim for accidental benefit as per policy conditions to the complainant. The complaint is, therefore, allowed.

Hyderabad Ombudsman Centre

Case No. L-1106/2003-04

Smt. D. Lalithamma

Vs.

Life Insurance Corporation of India

Award Dated 16.2.2004

Sri D. Shanta Rao, working as Watchman in South Central Railway, at Khammam, took two life insurance policies as per details mentioned below :-

Policy No.	682378948	682507850
Date of Proposal	02.03.1998	16.01.2000
Date of acceptance/FPR	14.03.1998	28.01.2000
Sum Assured	50,000	25,000
Plan & Term	75.20	133-15
Date of commencement of risk	14.03.1998	28.01.2000
Date of Death	02.02.2001	02.02.2001
Date of repudiation	09.11.2002	09.11.2002
Cause of death	Heart Failure	Heart Failure

FACTS OF THE CASE :

One D. Shanta Rao, working as Watchman in South Central Railway at Khammam took the above policies from Peddapalli Branch under Karinagar Division, of LIC of

India. The life assured D. Shanta Rao died on 02.02.2001, in Railway Hospital at Ramagundam due to Heart Failure. In fact the death occurred while the life assured was on duty.

REASON'S FOR REPUDIATION :

Smt. D. Lalithamma, who was the nominee under the above policies, lodged claims with the LIC. The claims were repudiated by the LIC on the ground that the deceased life assured, while proposing for insurance under the policy no.682378948, did not disclose the material facts relating to his health, as he was on continuous medical leave for almost 2 years from 19.07.1995 to 15.03.1997. He was affected by polio of both Upper and Lower Left Limbs. He did not, however, disclose these facts in his proposal. Instead he gave false answer under Q.No. 11 (a), (b), (c), (d), (e) and (i) of proposal form signed by him on 02.03.1998. Under policy no. 682507850 the life assured did not disclose the material facts relating to his health, as he was on continuous medical leave for almost 2 years from 19.07.1995 to 15.03.1997. Further, the occupation was mentioned as "Gangman" whereas he was declared medically unfit for the post of Gangman by order dated 24.08.1995. He did not, however, disclose these facts in his proposal. Instead he gave false answer under Q.No. 11 (a), (b), (c), (d), (e) and (i) of proposal form He did not however, disclose these facts in his proposal dated 16.01.2000.

DECISION :

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

Policy No. 682378948

- i) Sec.45 of Insurance Act, 1938 is applicable to the claim. The implication is that the insurer has to prove both materiality of the facts suppressed and the fraudulent intent on the part of the life assured before repudiating the claim.
- ii) The proposal form for insurance under the first policy was executed by the insured on 02.03.1998. In the relevant column of the proposal form, the deceased life assured mentioned his occupation as "Watchman". There was no suppression of material fact in respect of occupation of the life assured under the above policy.
- iii) The insurer, in their claim repudiation letter dated 09.11.2002, alleged that the life assured made deliberate mis-statements and withheld information regarding his ill health and leave for almost 2 years from 19.07.1995 to 15.03.1997. The insurer relied on the leave statement secured by them from the employer. On a careful perusal of the leave record, it was observed that the employer had provided information to the extent of the period of sick leave but they did not mention any thing about the nature of sickness etc.
- iv) However there was a noting " party has been made medically unfit for Gangman vide DMO/KZJ/Lr.No. MDI- K25/24/Vol II/95 direct Party to AEN RDM further discussion". This provides, an indication that the life assured was affected with some illness.
- v) Keeping in view the above facts, I am of the view that denying claim under the above policy is not in order especially in view of Part II of the Sec.45 of Insurance Act, 1938 as fraudulent intention on the part of the life assured is not established. When Sec.45 is attracted, the insurer cannot rest his case by

merely pointing out failure of the insured to disclose some facts relating to treatment, etc., in the proposal form. He should also prove beyond reasonable doubt that such failure was deliberate and fraudulent. The insurer did nothing in this regard. Also the nexus between polio in early part of life and cause of death is not proved.

- vi) In the light of the facts, I am of the opinion that the denial of claim under policy no.682378948 is not correct and therefore, I direct the insurer to accept the claim.

Policy No.682507850 :

- i) Sec.45 of Insurance Act, 1938 is applicable to the claim. The implication is that the insurer has to prove both materiality of the facts suppressed and the fraudulent intent on the part of the life assured before repudiating the claim. Contract of Insurance is Contract of Good Faith. Having regard to the facts of the case, I am of the opinion that the insured ought to have disclosed the material facts relating to his occupation; especially the medical fitness. Owing to the non-disclosure of the material facts relating to his health, the insured violated the principle of utmost good faith and did not give sufficient opportunity to the insurer for evaluating the risk correctly.
- ii) The insurer in their claim repudiation letter dated 09.11.2002 alleged that the life assured made deliberate mis-statements and withheld information regarding his ill health and Leave for almost 2 years from 19.07.1995 to 15.03.1997. The insurer relied on the leave statement secured by them from the employer. The insurer also alleged that the life assured deliberately mentioned his occupation as "Gangman". In fact the life assured was made unfit for the job of Gangman by order dated 24.08.1995. The proposal for insurance under the above policy was executed on 16.01.2000. The life assured chose to mention his occupation as Gangman where as he was declared unfit for the post almost 4 years and 6 months back. Thus the life assured deliberately induced the insurer in issuing a high-risk plan by suppressing vital material information.
- iii) As the life assured induced the insurer to issue a high-risk policy by wrongly declaring the occupation as "Gangman" for which post the life assured was found to be medically unfit, I decline to interfere with the decision of the insurer. In the result, complaint under policy no. 682378948 is allowed for Rs. 50,000 and complaint under policy no. 682507850 is dismissed.

Hyderabad Ombudsman Centre

Case No. L-1235/2003-04

Smt. Late T. K. Kotilingam

Vs.

Life Insurance Corporation of India

Award Dated 16.2.2004

Sri Tamma Kotilingam, S/o Sri Tamma Suranna, working as a lecturer in V.T.Degree College, Rajahmundry took a life insurance policy, details of which are mentioned below: -

Policy No.	:	800859581
Date of Proposal	:	31.01.2001
Date of Acceptance/FPR	:	07.02.2001
Sum Assured	:	Rs.1,00,000

Plan & Term : 14-08
Date of Death : 09.02.2003
Date of Repudiation : 02.10.2003
Cause of death : Renal failure

Section 45 of Insurance Act 1938 is applicable under the claim

BACKGROUND

The life assured late Sri Tamma Kotilingam, S/o Sri Tamma Suranna, working as a lecturer in V.T.Degree College, Rajahmundry took the above insurance policy from Rajahmundry Main Branch, under Rajahmundry Division, of LIC of India, as per the details furnished. The insured died on 09.02.2003 due to kidney failure. The duration of the claim was 2 years and 02 days. The claim under the policy was repudiated by LIC on 02.10.2003 on the grounds of suppression of material facts relating to his earlier insurances (viz: 800240228 taken in 11/99 for Rs.41,000 and 800260741 taken in 11/2000 for Rs.1,50,000) and suppression of material facts relating to his health and his treatment for Diabetes Mellitus and Hypertension, prior to taking insurance policy. Smt.T.K.Bramaramba, the nominee and complainant under the policy, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Rajahmundry Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 13.02.2004 at Vijayawada.

Observations of Insurance Ombudsman:

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

- a) Section 45 of the Insurance Act 1938 is applicable under the claim. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured, before repudiating the claim.
- b) The life assured took an endowment assurance policy on 07.02.2001 for a sum assured of Rs.1,00,000. He died due to Diabetes Mellitus/hypertension/chronic renal failure" on 09.02.2003 at Vijaya Health Centre, Chennai. The duration of the claim was 2 years and 02 days. The insurer arranged for investigation into the bonafides of the claim;
- c) According to the insurer, they have already settled all the Non-early claims held by the insured, as the duration of these claims was more than 3 years. Further, they also settled 2 early claims which were taken by the insured in 11/99 for a Sum Assured of Rs.41,000 and 11/2000 for a Sum Assured of Rs.1,50,000. It was contended by the insurer that, the life assured, while taking the policy in 02/2001, suppressed material facts relating to the earlier insurances held by him;
- d) According to their underwriting norms, had the life assured disclosed his earlier insurances (viz. policies taken in 11/99 and 11/2000), they would have advised the life assured to undergo special medical tests viz. ECG, BST and Serum. It is pertinent to mention here that all the policies were taken by the insured from the same LIC Branch. At the time of taking the policy in 11/2000 (Sum Assured Rs.1,50,000), ECG was already taken for him and later, the policy was issued. According to the

underwriting procedures of LIC, any special report, taken for an insured, would be valid for six months. In the instant case, I am of the view that since ECG was already taken in 11 /2000, it need not be insisted again in 11/2001 when the policy in question was taken. More so, the life assured was also medically examined by authorized doctor of the LIC. It was the responsibility of the agent of the insurer to furnish full details relating to the health and other material facts of the insured as disclosed to the agent by the life assured, in the proposal form. It was not known as to how the agent had not furnished these details, especially when they were brought to his notice for furnishing in the proposal for insurance. In the case on hand, if there was a mistake, it was the mistake of of the agent/development officer of the insurer, who should have properly enquired as to the details of his previous insurance. The expressions “**sum under consideration**” etc, are to be better read and understood by the insurance intermediaries than to be imagined by a layman like the deceased life assured;

- e) The repudiation of the claim simply on the basis of non-disclosure of earlier insurance policies does not appear to be reasonable in view of the fact that the LIC of India a mammoth organisation without a parallel, should have instituted its own systems and procedures for cross checking the insurance particulars in view of the advanced technological developments, especially when all the policies were taken in the same Branch. Further, a policy holder, with as many as ten policies, engaging the services of the same agent and development officer, cannot be such a run of the-mill as not to be known to all the employees of such a small branch as under consideration. Penalizing the complainant by denying the claim amounts is not justified;
- f) Again, in support of their repudiation, the insurer obtained treatment particulars in their claim forms B/B1 from Vijaya Health Centre, Chennai. According to the treatment particulars as obtained by the insurer in these forms, the life assured was **first** admitted only on **11.10.2002** and took treatment upto 25.10.2002. Again, he was admitted there on 01 .02.2003 vide Case Sheet No.764/2/2003 and died in the hospital itself on 09.02.2003, while undergoing treatment. The diagnosis arrived by the hospital authorities was “**Chronic renal failure-Diabetes Mellitus**” and the other diseases which preceded or co-existed were “**Diabetes Mellitus/Hypertension - 10 years**”. It was also reported by the hospital authorities in the claim form B that **chronic renal failure since Jan.2002 only**;
- g) As per the treatment particulars obtained by the insurer from Vijaya Health Centre, Chennai, the primary cause of death was “**Diabetes Mellitus/hypertension/chronic renal failure**” and the secondary cause of death was “**Sensory motor neuropathy**”. From the above, it is established beyond doubt that the diagnosis for renal failure was made **only after taking the insurance policy**;
- h) Though it was reported that the life assured was suffering from diabetes mellitus/hypertension since 10 years, the insurer could not obtain any corroborative evidence for the treatments the life assured had from any doctors or hospitals. In fact, they must have obtained complete and full particulars of the treatments like prescriptions indicating the medicines used by the insured,

the relevant case sheets, details of reports relating to pathological tests, etc. so as to sustain their repudiation action;

- i) According to the information obtained by the insurer in their claim form E from the employer of the life assured, the life assured had not availed any leave on sick grounds during the period of three years, preceding the issue of the insurance policy in question;
- j) Before discussing further, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter- alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. It is pertinent to note that in the instant case the insurer could not obtain the relevant case sheet or full details of treatment particulars from the doctors/hospitals, where the insured was reported to have taken treatment for diabetes mellitus/hypertension since 10 years;
- k) It is also curious to note that the investigating official of LIC who had investigated into the bonafides of the claim reported that no treatment particulars in proof of the life assured having suffered from diabetes mellitus/hypertension could be obtained by him and even recommended for admission of the claim;
- l) I may also mention that the insurer settled some, if not all, of the policies of the life assured though they were subscribed to, and became effective long after the alleged DM and HTN afflicted the life assured ten years ago.
- m) Having regard to the facts and circumstances as discussed above and in the absence of any supportive/concrete evidence to the effect that the life assured took treatment for diabetes mellitus and hypertension, prior to taking the insurance policy, and as the insurer also could not fulfill all the three ingredients required under the 2nd part of Section 45 of the Insurance Act, 1938 and could not establish fraudulent intent on the part of the life assured to defraud LIC, the repudiation action of the insurer is not justified.
- n) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim of the complainant under the aforesaid insurance policy by the insurer is not legal, correct and proper and therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre

Case No. L-1154/2003-04

Late. K. Venkateshwara Rao

Vs.

Life Insurance Corporation of India

Award Dated 16.2.2004

Sri Kommalapati Venkateswara Rao, S/o Sri Kommalapati Subba Rao, working as a teacher at Santhamaguluru (Post) in Prakasam District took a life insurance policy, details of which are mentioned below: -

Policy No. : 673459114
Date of Proposal : 27.03.2000
Date of Acceptance/FPR : 31.03.2000/15.04.2000
Sum Assured : Rs.1,00,000
Plan & Term : 14-11
Date of Death : 10.04.2002
Date of Repudiation : 31.10.2002
Cause of death : Heart attack

Section 45 of Insurance Act 1938 is applicable under the claim

BACKGROUND

The life assured late Sri Kommalapati Venkateswara Rao, S/o Sri Kommalapati Subba Rao, working as a teacher at Santhamaguluru (Vill. & Post) in Prakasam District took the above policy from Addanki Branch under Nellore Division, of LIC of India, as per the details furnished. The insured died on 10.04.2002 due to sudden heart attack. The duration of the claim was 2 years and 12 days. The claim under the policy was repudiated by LIC, on the grounds of suppression of material facts, as the life assured did not disclose material facts relating to his treatment for Asthma and Pneumonia, prior to taking insurance policy. It was also alleged that the life assured availed leave on sick grounds during the period 11.06.1998 to 07.08.1998, which was also prior to taking the insurance policy, which material fact was also suppressed by the life assured while taking the insurance policy. Smt.K.Subhashini, the nominee and complainant under the policy, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 13.02.2004 at Vijayawada.

DECISION:

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

- a) Section 45 of Insurance Act 1938 is applicable under the claim. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- b) The life assured took an endowment assurance policy on 31.03.2000. He died suddenly due to high fever and heart attack on 10.04.2002. The duration of the claim was 2 years and 12 days. The insurer arranged for investigation into the bonafides of the claim;
- c) In support of the repudiation, the insurer obtained only F.No.5152 issued by Dr.P.Suryanarayana of Narasaraopet. Though it was reported that the life assured consulted the doctor on 07.06.1998 and took treatment from the doctor for 2 months, the insurer could not obtain any corroborative evidence for the treatments the life assured had from this doctor. In fact, they must have obtained complete and full particulars of the treatments like prescriptions indicating the medicines used by the insured, the relevant case sheets, details

of reports relating to pathological tests, etc. so as to sustain their repudiation action;

- d) According to the information obtained by the insurer in their claim form E from the employer of the life assured, the life assured availed leave on sick grounds during the period 11.06.1998 to 07.08.1998. Since Sec.45 is applicable under the claim, the insurer ought to have obtained full particulars of the treatments given to the insured by Dr.P.Suryanarayana of Narasaraopet. But the same was not done by the insurer.
- e) Before discussing further, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter- alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. It is curious to note that in the instant case the insurer could not obtain the relevant case sheet or full details of treatment particulars from the doctor who had issued the F.No.5152;
- f) I also do not find any nexus between the material facts suppressed by the insured to the cause of death of the life assured on 10.04.2002. If asthma and pneumonia had a real nexus with the death of the life assured after a period of about 4 years (06/1998: sick leave for asthma & pneumonia and death in 04/2002: high fever & heart attack), the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before the Insurance Ombudsman to drive home its contentions.
- g) The policy at issue is a medical policy. A panel doctor of the LIC examined, and reported about, the life assured before the acceptance of the policy by the LIC. He did not report about asthma and/or pneumonia. Certainly, he could not have missed asthma if it existed when he examined the life assured and pneumonia is a curable disease. Having regard to the facts and circumstances as discussed above and in the absence of any supportive/concrete evidence to the effect that the life assured took treatment for asthma and pneumonia prior to taking the insurance policy, and as the insurer also could not fulfill all the three ingredients required under the 2nd part of Section 45 of the Insurance Act, 1938 and could not establish fraudulent intent on the part of the life assured to defraud LIC, the repudiation action of the insurer is not justified.
- h) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim of the complainant under the aforesaid insurance policy by the insurer is not legal, correct and proper and therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre
Case No. L-1079/2003-04
Sri. R. Sambasiva Rao
Vs.

Life Insurance Corporation of India

Award Dated 16.2.2004

Smt.Repalle Seshaparvathy, W/o Sri Repalle Sambasiva Rao, doing milk business and a resident of V. Kothapalem in Krishna District, took a life insurance policy from Avanigadda Branch of LIC under Machilipatnam Division, as per details furnished below:-

Policy No.	:	672049328
Date of Proposal	:	24.05.2001
Date of Acceptance/FPR	:	28.05.2001
Date of commencement	:	28.05.2001
Sum Assured	:	1,00,000
Plan & Term	:	14-20
Date of Death	:	27.09.2001
Date of Repudiation	:	04.02.2003

FACTS OF THE CASE

Smt.Repalle Seshaparvathi, W/o Sri Repalle Sambasiva Rao, a resident of V.Kothapalem Village in Krishna District took a life insurance policy from Avanigadda Branch of LIC of India, under Machilipatnam Division. The life assured was doing milk business. The life assured died on 27.09.2001. The cause of death was reported to be Kidney Failure. Sri R.Sambasiva Rao, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 04.02.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that the life assured **suffered from Diabetes Mellitus since 13 years, was on Insulin Therapy treatment since 6 years and was a known patient of Hypertension since one year, before she proposed for the above policy and took treatment for the same.** She, however, did not disclose these facts in the proposal. Instead, she gave false answers. Finding the life assured to be guilty of suppression of material facts relating to her health at the time of taking the insurance policy, the claim was repudiated by LIC.

DECISION :-

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

- i) Smt. Repalle Seshaparvathy, W/o Sri Repalle Sambasiva Rao, doing milk business and cultivation and a resident of V.Kothapalem (Village) in Krishna District took an Endowment Insurance Policy on 28.05.2001 for a Sum Assured of Rs.1,00,000. The life assured died on 27.09.2001. The cause of death was reported to be **"Kidney Failure"**. The duration of the claim was just 4 months. Since it was an early claim, the insurer arranged for investigation of the claim;
- ii) According to the treatment particulars obtained by the insurer in their claim form B from Dr.C.Radhakrishna Rao of Avanigadda, the insured consulted him on 04.08.2001 and as the condition of the life assured was bad, the doctor advised them to take the life assured to Dr.N.Ammanna of Vijayawada. This doctor reported that the insured was again brought to him on 27.09.2001 and he refused treatment as the condition was bad. The primary cause of death, according to this doctor was **"kidney failure"** and the secondary cause of death was **"heart failure"**;

- iii) According to the records of Arun Kidney Centre, Vijayawada, the life assured was admitted there on 05.08.2001 and the life assured was reported to be a known **Diabetes Mellitus since 13 years and on Insulin Therapy since 6 years and a known HTN since one year**. This clearly established the fact that the life assured was not in good health at the time of taking the insurance policy;
- iv) According to the treatment particulars obtained by the insurer in their claim form B1 from Arun Kidney Centre, Vijayawada, the life assured took treatment during 05.08.2001 to 15.08.2001 and again on 26.09.2001. The diagnosis arrived by them was **“NIDDM-Nephropathy-CRF-Acc.HTN”**;
- v) The diseases with which the life assured was suffering and the treatments for the same were all well within her knowledge especially, when the life assured was reported to be on insulin therapy treatment since 6 years, which was, very much before the date of proposal and hence the life assured ought to have disclosed truthfully all the material facts relating to her health to the insurer, while effecting the proposal for insurance;
- vi) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and she deliberately suppressed the material facts to the insurer. Though the insured had been suffering from Diabetes Mellitus and on insulin therapy treatment since 6 years, as reported by the hospital authorities, before taking the insurance policy, the insured suppressed the material facts relating to her health condition from the insurer so as to induce the insurer to accept the proposal made by her for insurance;
- vii) Incidentally, the suppression of material facts of her illness Diabetes Mellitus (13 years), on insulin therapy treatment since 6 years and hypertension since 1 year from which the life assured suffered and took treatment prior to taking the insurance policy has nexus with the cause of death on 27.09.2001;
- viii) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and she had suppressed the material facts of her ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Diabetes Mellitus on insulin therapy, prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- ix) Therefore, for the reasons as mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to her health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1165-2003-04

Smt. Sumathi Devi

Vs.

Life Insurance Corporation of India

Award Dated 19.2.2004

Sri C.Govardhana Naidu, working as Assistant in LIC of India, Kavali Branch, took an life insurance policy from Kavali Branch under Nellore Division of LIC of India, as per details furnished below: -

Policy No.	:	841928075
Date of Proposal	:	28.08.1998
Date of Acceptance/FPR:	:	31.08.1998
Sum Assured	:	1,00,000
Plan & Term	:	75-20
Date of commencement of risk	:	20.08.1998
Date of Death	:	04.12.1999
Date of Repudiation	:	31.12.2002
Cause of death	:	Heart Attack

FACTS OF THE CASE:

One Sri C.Govardhana Naidu, working as Assistant in LIC of India, Kavali Branch took the above life insurance Policy from Kavali Branch under Nellore Division under the Corporation Employee's Salary Savings Scheme. The proposal was executed on 28.08.1998. The life assured died on 04.12.1999 due to heart attack. When claim was preferred by the nominee and the complainant Smt. P. Sumathi Devi, the LIC of India, repudiated the claim due to the reason that there was gap in payment of premium and that the life assured voluntarily submitted a letter to the office to stop recovery of monthly premium from his salary due to which the LIC did not receive the premium and the said policy lapsed. As the policy was lapsed without acquiring any value, the claim was repudiated. The appeal of the complainant was rejected by the Zonal Office Claims Review Committee. Thus Smt. P.Sumathi Devi preferred an appeal to this office. A personal hearing was arranged on 20.01.2004 at Nellore. Smt. P.Sumathi Devi, the complainant attended the hearing. Sri T.Eswar Reddy, A.O (Claims) LIC, Nellore Division represented the LIC.

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

- a) The life assured himself submitted a letter of authorization for recovery of premium and again submitted a letter on 24.11.1998 requesting the LIC i.e. his employer to stop deduction of monthly premium from the salary from the month of 10/1998. This means that initially the insurer received premium for the months of 08/1998 and 09/1998.
- b) Again the life assured requested for recovery of premium from the month of 03/1999 and the same was effected upto 10/1999. The life assured died in the month of December 1999. Hence the premium for the month of 11 / 1999 should have been also received by the LIC. This again was also not done.
- c) There has been initial gap of premium for 5 months from 10/1998 to 02/1999 and also there has been a terminal gap in payment of premium for the month of 11/1999.
- e) The insurer had intimated the fact of default in premium payment for the above period 10/1998 to 02/1999 vide their letter dated 04.05.1999. The life assured ought to have paid the premium for the above period to secure the valuable

protection of insurance cover. However, the insured failed to respond to the letter and take necessary action.

- f) According to the rules governing settlement of claims under the Salary Savings Scheme it is observed that the claimant is not eligible for payment of claim as the policy was in lapsed condition as on the date of death of the life assured.
- g) Thus, I am of the view that the insurer had taken adequate steps to ensure that the life assured was informed of the gap in premium payment and the life assured failed to respond to get the valuable life insurance cover. Hence the action of the insurer in repudiating the claim is justified

However, I am of the opinion that it is just and proper to meet the ends of justice to direct the insurer to make a payment of refund of premium collect by the insurer from the date of commencement of the policy to the date of death under the policy, as ex-gratia by invoking Rule 18 of the Redressal of Public Grievances Rules 1998 on humanitarian grounds

Hyderabad Ombudsman Centre
Case No. L-1226/2003-04
Late D. Venkata Someswara Rao
Vs.
Life Insurance Corporation of India

Award Dated 19.2.2004

Sri D.Sitaramaswamy, S/o Sri D.Subba Rao, working as watchman in ZP High School, Peddatummidi and resident of Peddatummidi Village, under Bantumilli Mandalam, Krishna District, took a life insurance policy from City Branch II of LIC under Machilipatnam Division, as per details furnished below:-

Policy No.	:	673613775
Date of Proposal	:	30.09.2002
Date of Acceptance/FPR	:	30.09.2002
Date of commencement	:	28.09.2002
Sum Assured	:	1,00,000
Plan & Term	:	149-28
Date of Death	:	30.11.2002
Date of Repudiation	:	31.03.2003

FACTS OF THE CASE

Sri D.Sitaramaswamy, S/o Sri D.Subba Rao, working as watchman in ZP High School, Peddatummidi and resident of Peddatummidi Village, under Bantumilli Mandalam, Krishna District, took a Life Insurance Policy from City Branch II, Machilipatnam of LIC of India, under Machilipatnam Division. The life assured died on 30.11.2002. The cause of death was reported to be Stomach Cancer. Sri D.Venkatasomeswara Rao, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about five (5) months before he proposed for the above policy, he had suffered from '**Stomach Cancer**' disease and took treatment for the same in Sacred Hospital, Gudivada on 03.06.2002 and at N.I.M.S, Hyderabad on 24.06.2002 for stomach cancer. He availed medical leave from 17.06.2002 to 27.06.2002 and again from 02.07.2002 to 15.07.2002 before the date of proposal. He, however, did not disclose these facts in the proposal. Instead, he gave false

answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim. Sri D.Venkatasomeswara Rao, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Machilipatnam Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 12.02.2004 at Vijayawada.

DECISION:-

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

- i) Sri D.Sitarama Swamy, S/o D.Subba Rao, watchman in Z.P.High School, Peddattumidi and a resident of Peddattumidi Village in Krishna District took a Jeevan Anand Policy for a Sum Assured of Rs.1,00,000. He had executed the proposal for insurance on 30.09.2002 and the risk under the policy commenced on 28.09.2002. The life assured died on 30.11.2002. The cause of death was reported to be "**Cancer Stomach**". The duration of the claim was just 2 months only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) The investigation conducted by the insurer revealed that the life assured had consulted Sacred Hospital, Gudivada on 23.06.2002. Later the life assured presented himself for consultation at NIMS Hospital, Hyderabad.
- iii) According to the hospital records obtained by the insurer from NIMS Hospital, Hyderabad, the life assured consulted them as out patient during the period 24.06.2002 to 27.06.2002 and underwent several tests. The biopsy taken on 27.06.2002 revealed "**Gastric lymphoma**" and **Carcinoma Stomach**;
- iv) According to the Upper GI Endoscopy Report dated 27.06.2002 performed at NIMS Hospital, Hyderabad it was observed that the life assured was diagnosed "**Gastric lymphoma, Ca Stomach**". The discharge summary of the hospital confirmed that the life assured was investigated with severe epigastric pain and loss of appetite of 6 months duration. The endoscopy examination revealed a large mass in the body extending to fundus of stomach. The biopsy suggested poorly **differentiated carcinoma**;
- v) The consultation and treatment by the life assured at NIMS Hospital, Hyderabad, were prior to taking the insurance policy. The disease with which the life assured was suffering and the consultations and treatments for the same were all well within his knowledge especially as these occurred under just 5 months before the date of proposal and therefore, he ought to have disclosed to the insurer all the material facts relating to his health, while effecting the proposal for insurance;
- vi) Section 45 of Insurance Act 1938, is not applicable to the claim. The implication is that the insurer could consider repudiation of a claim if there is any untrue averment in any statements submitted by the life assured leading to the issue of the insurance policy;
- vii) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer. Though the insured had been suffering from Carcinoma stomach disease, as reported by the hospital

authorities before taking the insurance policy, the insured suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;

- viii) Incidentally, the suppression of material fact of his illness of Carcinoma stomach from which the life assured suffered and took treatment prior to taking the insurance policy, has nexus with the cause of death on 13.07.2002;
- ix) It may also be mentioned here that Sri B.Abraham, LIC Agent, Bantumilli, witnessed the proposal for insurance thereby rendering himself to be party to the fraud played by the life assured. The LIC Development Officer, who incidentally also countersigned the agents confidential report form, was also a part to the entire activity. It is difficult to avoid the impression that the Agent and Development Officer in this case have abetted the life assured in suppression of material facts to enable him to defraud the LIC;
- x) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Carcinoma Stomach, prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claim by the insurer was justified
- xi) Therefore, for the reasons mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1211/2003-04

Smt. V. Ramayamma

Vs.

Life Insurance Corporation of India

Award Dated 20.2.2004

Sri V.Abaddham, S/o V. Appanna working as Health Assistant, took a life insurance policy as per details mentioned below: -

Policy No.	:	691807546
Date of Proposal	:	18.03.2002
Date of Acceptance/FPR:	:	18.03.2002
Sum Assured	:	50,000
Plan & Term	:	14-12
Date of commencement of risk	:	19.02.2002 (Dated back)
Date of Death	:	24.03.2002
Date of Repudiation	:	31.03.2003
Cause of death	:	Heart Attack.

FACTS OF THE CASE

One Sri V. Abaddham, Health Assistant, took the above insurance policy from Chodavaram Branch under Visakhapatnam Division of LIC of India. The life assured V.Abbadam died on 24.02.2002 within 6 days of executing the proposal for insurance due to heart attack. His wife and nominee Smt. V.Ramayamma lodged claim with the LIC. The claim was repudiated by the LIC on the ground that the deceased life assured, while proposing for insurance under the above policy did not disclose the material facts relating to his health, as he suffered from Hypertension for which he consulted doctor and took treatment in a hospital, 5 years prior to date of taking of the policy. Smt V.Ramayamma, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Visakhapatnam. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 12.02.2004 at Vijayawada. Smt. V.Ramayamma complainant and her son Sri.Phanindra Kumar attended the hearing. Smt. A.Vijayalakshmi Manager (Claims)/ D.M LIC, Visakhapatnam Division represented the LIC.

DECISION :

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

- a) Section 45 of the Insurance Act 1938 is not applicable to the claim. The implication is that the insurer reserves the right to repudiate a claim if there is any untrue averment in the proposal or any statement leading to issue of the policy;
- b) The evidence secured by the insurer is a certificate-dated 21.01.2003 issued by Dr. M.Tirupaiah, Retired Dy.Civil Surgeon and Authorised Doctor L.I.C of India, K.Kotapadu. The said evidence, mentioned that the doctor knew Sri V.Abbadam since 10 years and the life assured was working under him at PHC Chouduwada. The doctor further mentioned that the life assured was a known hypertensive for the last 5 years.
- c) The other evidence secured by the complainant and submitted to me is in the form of a certificate dated

Hyderabad Ombudsman Centre

Case No. L-1114/2003-04

Smt. K. Renuka Devi

Vs.

Life Insurance Corporation of India

Award Dated 20.2.2004

Sri K. M. Sankar Dev, working as Train Ticket Inspector in Railways at Vijayawada, took a life insurance policy, details of which is mentioned below: -

Policy No.	: 672704838
Date of Proposal	: 28.03.2002
Date of Acceptance/FPR	: 31.03.2002/ 10.04.2002
Sum Assured	: 1,00,000
Plan & Term	: 149-15
Date of Death	: 10.05.2002

Date of Repudiation : 31.12.2002
Cause of death : Heart Attack

FACTS OF THE CASE

The life assured late Sri M.Shankar Dev, Train Ticket Inspector, South Central Railways, Vijayawada took the above policy from Governorpet Branch (B.O.No.686) of Machilipatnam Division, as per the details furnished above. The insured died on 10.05.2002 due to heart attack. The claim under the policy was repudiated by LIC on the grounds of suppression of material facts, as the life assured did not disclose his treatment for heart ailment for which he took treatment in South Central Railway Hospital at Vijayawada and also at Soumya Apollo Hospital during the period from 05.4.2002 to 09.04.2002 which was prior to date of acceptance of risk under the insurance policy i.e. 10.04.2002. It was also alleged that the life assured was on sick leave for 4 days during 06.04.2002 to 09.04.2002 and that he did not, however, disclose these facts to the insurer after execution of the proposal for insurance on 28.03.2002. In terms of declaration at the foot of the proposal signed by the life assured, he should have intimated any change in health or undergoing any treatment before the date of issuance of first premium receipt/ date of acceptance of risk under the insurance policy i.e. 10.04.2002. The life assured failed to do so by not informing about the sick leave, the heart ailment and treatment before 10.04.2002. This tantamounted to breach of declaration made at the foot of the proposal and hence the contract was void-ab-initio. Thus the LIC repudiated the claim. Smt. K. Renuka Devi, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Machilipatnam Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

DECISION

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

- a) Section 45 of the Insurance Act 1938 is not applicable to the claim. The implication is that the insurer reserves the right to repudiate a claim if there is any untrue averment in the proposal or any statement leading to issue of the policy;
- b) The life assured executed the proposal form for securing life insurance cover on 28.03.2002, and he tendered the required premium of Rs.2,485 /- on 30.03.2002. The official record of the LIC of India, confirmed that the proposal for insurance cover on the above life assured was received by LIC on 30.03.2002. However, it could not be understood, as to why the decision on the proposal for insurance made by the life assured was kept pending by the LIC upto 10.04.2002. In the mean time the life assured underwent various tests relating to heart ailment on 05.04.2002, 08.04.2002 and 01.05.2002.
- c) According to the leave statement obtained by LIC, it was observed that the life assured never took sick leave for long period except during terminal illness. This proves that onset of heart ailment was sudden and that too after execution of the proposal for insurance on 28.03.2002 ;
- d) The declaration at the foot of the proposal form mentioned that, it was the responsibility of the proposer to intimate the fact relating to any change in his health condition between the date of executing the proposal, and the date of first premium receipt. In the instant case, the life assured executed the proposal form on 28.03.2002 and the first premium issued by the LIC contained

the date as 30.03.2002. According to the evidence submitted by LIC, the life assured went for health checkup only on 05.04.2002. Hence the life assured can not be made accountable for the lapse on the part of LIC for the delay in accepting the policy on 10.04.2002.

- e) The insurer i.e. LIC could not submit any evidence relating to existence of heart ailment with the life assured prior to date of execution of the proposal form.
- f) In view of the above fact, I am of the opinion that rejection of claim of the complainant on mere technical ground of warranty clause i.e. the duty of the proposer to inform any change in his health condition, between the date of execution of proposal form, and the date of acceptance of risk by the insurer, is not justified, especially since there has been delay on the part of the insurer to arrive at decision for acceptance of the life risk on the life of the proposer i.e. late K. K. Shanker Dev;

In view of the above facts, I consider that the action of the insurer in repudiating the claim is not justified and I direct them to settle the claim.

Hyderabad Ombudsman Centre

Case No. L-1201/2003-04

Sri. K. Peraiah

Vs.

Life Insurance Corporation of India

Award Dated 20.2.2004

Sri Kuppala Venkateswarlu, S/o Sri K. Atchaiah, doing cultivation took a life insurance policy as per the following the details:—

Policy No.	:	840940279
Date of Proposal	:	24.07.2001
Date of Acceptance/FPR	:	28.07.2001
Sum Assured	:	20,000
Plan & Term	:	14-15
Date of Death	:	01.08.2002.
Date of Repudiation	:	28.02.2003
Cause of death	:	Heart attack

BACKGROUND

Sri Kuppala Venkateswarlu, S/o Sri Kuppala Atchaiah, doing cultivation and a resident of Koniki (Village & Post) under Prakasam District took the above life insurance policy from Chiralal Branch under Nellore Division. The life assured died due to sudden heart attack on 01.08.2002. The insured, while proposing his life for insurance, understated his age by 26 years and thereby induced the insurer for issue of the policy. According to the insurer, had the life assured disclosed his correct age of 76 years at the time of taking the insurance policy, they would not have issued the insurance policy, as the life assured was not eligible for insurance at all. In view of suppression of material facts relating to his age by the life assured, LIC repudiated the claim under the policy. Sri K.Peraiah, the complainant and nominee under the policy represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the

rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 13.02.2004 at Vijayawada.

DECISION:

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

- i) The life assured took an Endowment Assurance Policy for a Sum Assured of Rs.20,000 in 07/2001. At the time of taking the insurance policy, the insured furnished his age as 49 years and based on his statement, the policy under dispute was issued. He died on 01.08.2002. The duration of the claim was just 1 year. Since it was an early claim, the insurer arranged for investigation into the bonafides of the claim;
- ii) The investigations revealed that the age furnished by the life assured was not correct and that there was gross understatement of age by 27 years by the insured. As such, the life assured was not eligible for insurance and the claim was, therefore, repudiated by the insurer;
- iii) In support of their repudiation action, the insurer obtained and submitted copy of the voters' list dated 25.03.2002 of Koniki Village of Inkollu Mandal under Prakasam District of Andhra Pradesh prepared by the government authorities;
- iv) According to the voters' list referred in (iii) above, the ages of the life assured and his sons were mentioned as:

(a) Sl.No.651	Kuppala	Venkateswarlu,	S/o	Atchaiah
(77 years)				
(b) Sl.No.652	Kuppala	Punnaiah,	S/o	Venkateswarlu
(52 years)				
(c) Sl.No.653	Kuppala	Peraiah,	S/o	Venkateswarlu
(46 years)				
(d) Sl.No.654	Kuppala Hanumantharao, S/o Venkateswarlu (44 years)			
(e) Sl.No.655	Kuppala Vijayakumar, S/o Hanumantha Rao (20 years)			
- v) The insurer also obtained and submitted the birth certificate of Master Ravitheja from M.P.Ele. School, Koniki. The date of birth was recorded by the school authorities as 28.06.1993. Incidentally, Mr.Ravitheja, was great grand son of the life assured (son of Smt. Venkateswaramma & Ramanjaneyulu and Venkateswaramma was daughter of Punnaiah, who in turn was son of the life assured);
- vi) All the above facts when chronologically arranged, establish beyond doubt that there was gross understatement of age by the life assured at the time of taking the insurance policy;
- vii) According to the underwriting norms of LIC, had the life assured disclosed his correct age of 77 years at the time of taking the insurance policy, LIC would not have issued the policy in question as the life assured was not eligible for insurance;
- viii) It would be pertinent to mention here that proof of age in connection with a life insurance policy was important in two respects (a) It is a condition precedent to the liability of the insurer and (b) Secondly, proof of age was very material for the assessment of the risk and hence the life assured should state his correct age. The rate of premium payable depends upon the age at the date of the risk.

The insurer, therefore, requires proof of age to be furnished by the life assured at the time of taking the insurance policy;

- ix) The complainant also never disputed about the age of the life assured in his written submissions or in his contentions during the course of the hearing;
- x) Sec.45 of the Insurance Act, 1938 was not applicable under the claim. The implication is that the insurer can consider repudiation of a claim if there is any untrue averment in any of the documents leading to issue of the policy,;
- xi) It is settled law that the contract of insurance is based on good faith. It is for the life assured to give the correct information relating to his age at the time of executing the proposal for insurance, which he did not disclose at that time. This ground of incorrect information and false statements regarding age of the insured make the insurance contract null and void. The insurer is, therefore, well within its right to repudiate the claim made by the complainant;
- xii) Therefore, I have to hold, for the reasons as aforesaid and also in the light of the evidences available on record as referred to above, the repudiation of the claim by the insurer is legal, proper and correct and does not call for any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-2042/2003-04

Smt. Chennabasappa Benageri

Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Sri Basaraj Benagere, S/o Channabasappa Benagere, occupation cultivation and a resident of Tilavalli (Post) in Karnataka took a life insurance policy, as per details furnished below:-

Policy No.	:	621686516
Date of Proposal	:	17.12.2000
Date of Acceptance/FPR:	:	28.12.2000
Date of commencement	:	28.12.2000
Sum Assured	:	20,000
Plan & Term	:	91-20
Date of Death	:	24.12.2001
Date of Repudiation	:	25.06.2002

Sec.45 of the Insurance Act, 1938 is not applicable under the claim.

FACTS OF THE CASE

Sri Basaraj Benagere, S/o Sri Channabasappa Benagere, a cultivator by profession and resident of Tilavalli (Village & Post) under Haveri District in Karnataka State, took a Life Insurance Policy from Shimoga Branch-II of LIC of India, under Udupi Division. The life assured died on 24.12.2001. The cause of death was reported to be sudden heart attack. Sri Channabasappa Benagere, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 25.06.2002, citing the reason that the life assured, while proposing for

insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 4 years before he proposed for the above policy, he suffered from '**T.B and Valvular disease of heart**', for which he had, consulted a medical man and took treatment from him. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:-

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

- i) Sri Basaraj Benagere, S/o Sri Channabasappa, a resident of K.G.Koppa (Village), Hangal Taluk in Karnataka took a New Janaraksha Policy for a Sum Assured of Rs.20,000. He had executed the proposal for insurance on 17.12.2000 and the risk under the policy commenced on 28.12.2000. The life assured died on 24.12.2001. The cause of death was reported to be "**sudden heart attack**". The duration of the claim was just one year only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) Their investigations revealed that the life assured was suffering from T.B and Valvular Disease of heart, since 4 years, before he proposed the policy for insurance on 17.12.2000. Since the life assured did not disclose these material facts while executing the proposal for insurance, LIC repudiated the claim;
- iii) The only evidence obtained by LIC in support of their repudiation was a letter dated 14.03.2002 addressed to LIC, Haveri by Dr. Chandrashekhar C. Koti of Tilavalli. This doctor reported that "**the life assured was under treatment for T.B. and Valvular Disease of Heart since 5 years. He had consulted Dr. J. G. Deodhar of Haveri. I used to give him "Lanoxin, Lasix and Anti T.B. Drugs. Some times he was visiting me and sometimes he used to take medicines from other doctors at Tilawalli"**";
- iv) The letter issued by the doctor stating that the life assured was under treatment for TB and valvular disease of heart since 5 years **was a vague statement and does not get anywhere in the absence of sufficient proof**;
- v) According to the investigating official of LIC, who had investigated the bonafides of the claim, Dr. J. G. Devadhar told him that he was not having any record regarding the treatments made and that he was not in a position to give any statement in writing. Further, even Dr. Subhash of Tilawalli who was reported to have treated the insured in the last days also reported that he was also not maintaining any records and, therefore, not ready to give anything in writing about the treatments. Therefore, according to the investigating official of LIC, no concrete evidence could be obtained in support of the treatments the insured had prior to taking the insurance policy. In any case, this is a case, where benefit of doubt is to be given in favour of the life assured in the absence of any cogent and clear evidence that the life assured was aware of his ill health or he was taking treatment therefor or the symptoms of his illness were manifested in him;

- vi) In this connection, it is profitable to quote the dictum laid down by the Hon'ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies;
- vii) "In course of time, the Corporation has grown in size and at present, it is one of the largest public sector financial undertakings. The public in general and crores of policyholders in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and reputation depend on its prompt and efficient service. Therefore, the approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be one of extreme care and caution. It should not be dealt with in a mechanical and routine manner";
- viii) The life assured in the present case was an agriculturist/coolie and took a policy under New Janaraksha Policy for a sum assured of Rs.20,000. The complainant is an illiterate and both were with complete rural background and belong to a poor family without much of help from any quarter and the repudiation of the claim should naturally affect the complainant adversely;
- ix) In the present case, considering the totality of circumstances as referred to above, I find that the repudiation of the claim is unsustainable on law as well as on facts and without sufficient reasons. The insurer is, therefore, directed to settle the claim to the complainant in full and final settlement of the claim.

The complaint is, therefore, allowed.

Hyderabad Ombudsman Centre
Case No. L-2056/2003-04
Smt. Amudha
Vs.
Life Insurance Corporation of India

Award Dated 26.2.2004

Sri Manikyavelu, S/o Late Kannan, working as a driver in Bangalore Mahanagar Palike and a resident of Bangalore, took a life insurance policy, as per details furnished below:-

Policy No.	: 612768441
Date of Proposal	: 14.07.2001
Date of Acceptance/FPR	: 14.07.2001
Sum Assured	: 50,000
Plan & Term	: 14-16
Date of Death	: 30.07.2001
Date of Repudiation	: 30.03.2002

FACTS OF THE CASE

Sri Manikyavelu, S/o Sri Kannan, working as a driver in Bangalore Mahanagar Palike and a resident of Bangalore, Karnataka State, took a life insurance policy from J. C. Road Branch of LIC of India, under Bangalore I Division. The life assured died on 30.07.2001. The cause of death was reported to be **Cardio Respiratory Failure secondary to Cirrhosis of liver, hepatic encephalopathy**. The duration of the claim was just 16 days from the date of acceptance of risk. Smt. Amudha, who is the nominee and complainant under the policy, lodged a claim with the LIC.

The LIC repudiated her claim on 30.03.2002, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that the life assured was a **chronic alcoholic person since many years and was suffering from cirrhosis of liver, Septicemia and liver enlargement**, for which he had consulted a medical man and took treatment as in-patient from a hospital. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:-

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

- i) Sri Manikyavelu, S/o late Sri Kannan, working as a driver, and a resident of Bangalore, took an Endowment Assurance Policy for a Sum Assured of Rs.50,000. He had executed the proposal for insurance on 14.07.2001 and the risk under the policy commenced on 14.07.2001. The life assured died on 30.07.2001. The cause of death was reported to be **“Cardio-respiratory failure Secondary to Cirrhosis of liver in hepatic encephalopathy”**. The duration of the claim was just 16 days only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) According to the treatment particulars obtained by the insurer in their claim forms B/ BI from the P.D.Hinduja Sindhi Hospital, Bangalore, the life assured was admitted there as in-patient on 21.07.2001 vide IP No.1320. The life assured was admitted there with complaints of pain abdomen, distension of abdomen-3 days. It was also reported in the claim forms by the hospital authorities that the ailments were first observed by the insured on 18.07.2001 and the history was reported to the hospital authorities **by the patient himself** (life assured);
- iii) According to the information obtained by the insurer in their claim form E from the employer of the life assured, the life assured availed leave on sick grounds during the periods 11.08.1998 to 09.09.1998, 12.12.1998 to 26.12.1998 and 11.03.2001 to 19.03.2001. All these spells were clearly prior to taking the insurance policy;
- iv) According to Mosby's Medical Dictionary 2003 (Page No.247), the implications of Cirrhosis are: -a chronic degenerative disease of the liver in which the lobes are covered with fibrous tissue, the parenchyma degenerates and the lobules are infiltrated with fat. Blood flow through the liver is obstructed, causing back pressure and leading to portal hypertension and esophageal varices. Eventually, unless the cause of the disease is removed, hepatic coma, G. I. Hemorrhage and kidney failure usually occur. Cirrhosis most commonly the result of chronic alcohol abuse but can be the result of nutritional deprivation or hepatitis or other infection;
- v) Although the admission is after taking the insurance policy, since the insured was an alcoholic, he should have had the problem earlier to the proposal. Further, as the life assured was reported to be an alcoholic, he ought to have disclosed the material facts to the insurer while executing the proposal for insurance;
- vi) The disease with which the life assured was suffering was well within his knowledge especially as the admission was just after 4 days of his taking the

policy, as he was reported to be an alcoholic and as he also availed leave on sick grounds on several occasions prior to taking the insurance policy. He ought to have disclosed to the insurer all the material facts relating to his health, while effecting the proposal for insurance;

- vii) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer and induced the insurer to accept the proposal made by him for insurance;
- viii) Incidentally, the suppression of material fact of his illness from which the life assured suffered prior to taking the insurance policy, has nexus with the cause of death on 30.07.2001;
- ix) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- x) Therefore, for the reasons mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-2058/2003-04

Smt. Usha Nandini

Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Sri G. R. Balaraju, working as Telecom Mechanic at Kolar took the following two policies:-

Policy No.	:	361232479	361290453
Date of Proposal	:	29.01.2001	20.06.2001
Date of Acceptance/FPR	:	28.02.2001	28.06.2001
Sum Assured	:	62,000	60,000
Plan & Term	:	75-20	75-20
Date of Death	:	30.01.2002	
Date of Repudiation	:	03.12.2002	
Cause of death	:	Cardio-respiratory arrest Secondary to Septicemia	

BACKGROUND

Sri G. R. Balaraju, S/o Sri V.Govindaraju, working as Telephone Mechanic at Kolar took the above insurance policies under Non-medical Scheme (without undergoing medical examination) from K.G.F. Branch under Bangalore-II Division. The life assured died due to cardio-respiratory arrest secondary to septicemia on

30.01.2002. The insured suffered from low back pain, Acute Bronchitis and acute lung diseases and took treatment for the same during the year 1999, which was prior to his taking the insurance policies. The life assured, however, did not disclose these material facts while taking the insurance policies. Smt. Usha Nandini, who is the nominee under the policies, lodged a claim with the LIC for settlement of the two claims.

But the claims were repudiated by LIC holding the life assured to be guilty of deliberately suppressing the above material facts relating to his health, while taking the insurance policies.

DECISION:

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

- i) The life assured late G. R. Balaraju took two insurance policies viz., Pol.No.361232479 on 28.02.2001 for a Sum Assured of Rs.62,000 and 361290453 on 28.06.2001 for a Sum Assured of Rs.60,000 respectively. He died on 30.01.2002 due to Cardio Respiratory Arrest secondary to Septicemia. The insurer repudiated both the claims on 03.12.2002, as the life assured deliberately suppressed material facts relating to his health;
- ii) According to the insurer, the life assured suffered from low back pain, Acute Bronchitis and acute lung disease during 1999 and these were not disclosed to them by the life assured while taking the insurance policies;
- iii) According to the treatment particulars obtained by the insurer in their claim Form No.5152 from Dr. G. Chakravarthy of Bangalore, the insured consulted him on 24.02.1999 for low back pain and the duration was reported as 2 to 3 months. The other diseases, which co-existed or preceded were Bronchitis with Acute lung disease. But the same doctor in the medical certificate issued by him on 31.10.2002 reported that the life assured was under his treatment for **low back pain from 24.02.1999 for 20 days to retrieve his normal health and no other treatment was given by him.** LIC must have, therefore, obtained from Dr. G. Chakravarthy the full details of treatments given by him for Bronchitis and Acute lung disease to sustain their repudiation action, which they have not done. In the absence of any information from the attending doctor as to the treatments given for bronchitis and acute lung disease, the repudiation of the claim on this ground could not be justified;
- iv) The other ground for repudiation was suppression of material fact relating to low back pain by the life assured. In this connection, it is pertinent to mention that the contracts of insurance including the contracts of life insurance are contracts of ubberima fide and every material fact must be disclosed and if not, it would furnish a ground for the avoidance of the contract. In the case on hand, the insured had low back pain and took treatment for the same from Dr.G.Chakravarthy of Bangalore and also availed of leave on the grounds of illness. Later, he was cured and was certified to be normal and fit for his duty and accordingly resumed his duties. This is only a passing ailment, which can very well be cured. This will not leave any permanent mark on the health of the insured. This cured element, cannot, therefore, be considered as a material fact or in other words, not to affect the health of a person permanently;

- v) Although the life assured was reported to have taken treatment for low back pain, there is nothing on record to show that the cause of death viz. Cardio Respiratory Arrest secondary to Septicemia had anything solely and exclusively to do with the said low back pain or the Septicemia stemmed from the low back pain or it was an offshoot of the low back pain sustained by the insured. An orthopedic treatment ordinarily would not interfere with the longevity of a person and it would not have substantially altered the position in relation to the assessment of risk by the insurer or it would not have left a permanent mark on his health. Section 45 of the Insurance Act 1938 does not confer a right on the insurer to treat all passing ailments as happened in the instant case as material facts and to brand the suppression of such material facts as a fraudulent action on the part of the insured;
- vi) If the suppressed material facts had a real nexus with the death of the life assured, the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before the Insurance Ombudsman to drive home its contentions;
- vii) Having regard to the facts and circumstances as discussed above, I am of the view that it is only fit and proper to direct the insurer to settle the claims under the aforesaid policies;

Therefore, for the reasons as mentioned above, I hold that the repudiation of the claims of the complainant under the aforesaid policies by the insurer is not legal, correct and proper and hence the complaint is allowed accordingly.

Hyderabad Ombudsman Centre

Case No. L-2057/2003-04

Smt. H. N. Prema

Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Sri G.Srinivas, Teacher in Government MHP School and resident of Yeliur of Kunigal taluk, took a life insurance policy from Kunigal Branch of LIC of India, under Bangalore D.O.I, as per details furnished below:-

Policy No.	:	61 1945675
Date of Proposal	:	23.08.2000
Date of Acceptance/FPR	:	15.09.2000
Date of commencement	:	15.09.2000
Sum Assured	:	1,00,000
Plan & Term	:	133-19
Date of Death	:	26.06.2001
Date of Repudiation	:	07.01.2003

FACTS OF THE CASE

Sri G. Srinivasa, a teacher by profession working at Government MHP school and resident of Yeliur Village of Kunigal taluk in Karnataka State, took a Life Insurance Policy from Kunigal Branch of LIC of India, under Bangalore D.O.I Division. The life assured died on 26.06.2001. The cause of death was reported to be Bilateral Pleural effusion and acute respiratory failure and cirrhosis of liver. Smt.H.N.Prema, who is the nominee and complainant under the policy, lodged a

claim with the LIC. The LIC repudiated her claim on 07.01.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 1 year before he proposed for the above policy, he had suffered from '**Pulmonary Tuberculosis**. and was under treatment. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:

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

- i) Section 45 of Insurance Act 1938 is applicable under the claim. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claim.
- b) The life assured took a Jeevan Mitra Triple Cover Endowment Assurance Policy in 09/2000 for a sum assured of Rs.1,00,000. The insured died on 26.06.2001. The duration of the claim was 9 months and 11 days. Since it was an early claim, the insurer arranged for investigation into the bonafides of the claim;
- c) In support of the repudiation, the insurer obtained treatment particulars in case summary from Malliga Hospital, Bangalore. This was the hospital where the life assured was admitted on 26.06.2001 i.e. the date of his death. It was reported in the case summary of the hospital that the life assured was a case of "**Bilateral tuberculosis pleural effusion, cirrhosis of liver on medication presents with history of breathlessness since 1 day**". **The cause of death was reported as Bilateral Pleural Effusion? Cause, Acute Respiratory Failure & Cirrhosis of Liver;**
- d) According to the information obtained by the insurer in their claim forms B/BI, earlier treatment - one-year back- was admitted by patient himself. This statement of the patient was considered by the insurer as clinching evidence for repudiating the claim. In this context, it is the case of the complainant that the deceased life assured did not give any such statement. Further, the period of one year is not supported by any record or register as to its precision. Since Sec.45 is applicable under the claim, the insurer ought to have obtained full particulars of the treatments for the one-year back treatment. But the insurer did not do the same.
- e) Before discussing further, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938: The said section provides, inter- alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. It is curious to note that in the instant case the insurer could not obtain the relevant case sheet or full details of treatment particulars for the period 1 year prior to the date of admission in the Malliga Hospital, Bangalore on 26.06.2001;

- f) The policy at issue is a medical policy. A panel doctor of the LIC examined, and reported about, the life assured before the acceptance of the policy by the LIC. He did not report about breathlessness, tuberculosis or pleural effusion and cirrhosis of liver. Certainly, he could not have missed the symptoms of breathlessness, tuberculosis and pleurisy if they existed when he examined the life assured. Having regard to the facts and circumstances as discussed above and in the absence of any supportive/concrete evidence to the effect that the life assured took treatment for breathlessness, tuberculosis etc. prior to taking the insurance policy, and as the insurer also could not fulfill all the three ingredients required under the 2nd part of Section 45 of the Insurance Act, 1938 and could not establish fraudulent intent on the part of the life assured to defraud LIC, the repudiation action of the insurer is not justified.
- g) Therefore, for the reasons as aforesaid, I hold that the repudiation of the claim of the complainant under the aforesaid insurance policy by the insurer is not legal, correct and proper and therefore, direct the insurer to settle the claim under the above policy for full sum assured.

The complaint is allowed.

Hyderabad Ombudsman Centre

Case No. L-2095/2003-04

Smt. Rachana R. Kindalkar

Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Sri Rudraksh G. Kindalkar, S/o late Gopal S. Kindalkar working as a technician in BEML, Bangalore took the following two policies:-

Policy No.	: 361 175099	361254808
Date of Proposal	: 26.11.1998	22.05.2000
Date of Acceptance/FPR:	28.11.1998	22.05.2000
Sum Assured	: 1,00,000	80,000
Plan & Term	: 90-13	14-18
Date of Death	: 07.03.2001	
Date of Repudiation	: 23.03.2002	
Cause of death	: Multi-organ failure Circulatory-Renal-Respiratory Acute Hemorrhagic Pancreatitis with Systemic inflammatory response syndrome	

BACKGROUND

Sri Rudraksh G. Kindalkar, working as a technician in BEML, Bangalore took the above insurance policies from Career Agents Branch under Bangalore-II Division. The life assured died in Manipal Hospital, Bangalore on 07.03.2001. The cause of death according to hospital authorities was **Multi-organ dysfunction syndrome due to acute hemorrhagic Pancreatitis**. According to the death summary of Manipal Hospital, Bangalore, where the life assured was admitted on 04.03.2001 vide In-patient No.119200, the life assured was reported to be an Asthmatic for about eight years and had undergone surgery for Lumbar Disc Prolapse 4 years back and had a Tosillectomy done about 10 years back. The treatment for Asthma and the surgery for Lumbar Disc Prolapse, as reported in the death summary of the Manipal Hospital, Bangalore, were prior to taking the insurance policies in

question. Smt. Rachana R.Kindalkar, who is the nominee under the policies, lodged a claim with the LIC for settlement of the two claims.

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

DECISION:

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

- i) The life assured late R.G.Kindalkar working as group D technician in M/s. BEML, Bangalore took two insurance policies viz., Pol.No.361 175099 on 28.11.1998 for a Sum Assured of Rs.1,00,000 and 361254808 on 25.05.2000 for a Sum Assured of Rs.80,000 respectively. He died on 07.03.2001 due to sudden Multi-organ failure (Circulatory, Renal & Respiratory) - Acute Hemorrhagic Pancreatitis with systemic inflammatory response syndrome. The insurer repudiated both the claims on 23.03.2002, as the life assured deliberately suppressed material facts relating to his health;
- ii) According to the hospital records of Manipal Hospital, Bangalore, the insured was first admitted in the hospital on 18.07.2000 vide ID No.36235 and discharged on 21.07.2000. The diagnosis arrived was a typical chest pain-mild hypertension-chronic bronchitis. Again he was admitted on 02.01.2001 and discharged on 03.01.2001 for treatment of chest pain. Finally, the insured was admitted in Manipal Hospital on 04.03.2001 and expired in the hospital on 07.03.2001;
- iii) According to the death summary issued by the Manipal Hospital, Bangalore, the life assured was presented to their hospital from Sharavathi Hospital, Bangalore, where he was evaluated and diagnosed to have Acute Pancreatitis. It was also reported by the hospital authorities that the life assured was reported to be an **Asthmatic for about 8 years and undergone surgery for Lumbar Disc Prolapse 4 years back and had a Tosillectomy done about 10 years back;**
- iv) **The surgery for lumbar disc prolapse, which the life assured was reported to have undergone, was clearly prior to taking the insurance policies and therefore, must be within his knowledge and must have been disclosed to the insurer, while taking the policies.** The contention of the nominee that she was not at all aware of such surgery, which the life assured had earlier, is beside the point as it does not contradict the insurer's contention that the deceased life assured must be aware of the surgery when he took the policy. Similarly, the contention of the complainant and her representative that the relevant question in the proposal form was very vague as it did not mention any specific period could not be accepted. After all, the surgery was performed on the insured just 4 years back and the life assured, being a literate person must be aware of the same and must be green in his memory;
- v) It is pertinent to mention here that both the policies were taken under Non-medical Scheme, without undergoing medical examination. As such, more responsibility is cast upon the life assured to disclose all the material facts to the insurer to enable them to assess the risk in the right perspective;

- vi) Policy No: -361175099:** -Now it needs to be mentioned here that the 2nd part of Sec.45 of the Insurance Act 1938 is applicable under this policy. In this connection, it is useful to refer to the provisions contained in Sec.45 of the Insurance Act, 1938. The said section, inter-alia, provides that no policy of insurance effected after the coming into force of this Act, after the expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a Medical Officer or a reference or a friend of the insured or any other document leading to the issuance of the insurance policy was inaccurate or false unless the insurer shows that such a statement was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The insurer must prove all the above three ingredients before considering repudiation of the claim in question;
- vii) Above all, the insurer is called upon to establish fraudulent motive on the part of the life assured, when he did not disclose the alleged material facts;
- viii) Although the insured was reported to be an Asthmatic for about 8 years and undergone surgery for Lumbar Disc Prolapse 4 years back, as per the hospital records of Manipal Hospital, Bangalore the insurer could not obtain the relevant hospital records or case sheets to sustain his repudiation. Further, according to the underwriting norms of LIC, policies are not totally denied to persons who have undergone lumbar disc prolapse that too, 4 years back (prior to admission in 03/2001) as per the history reported and recorded in the records of Manipal Hospital, Bangalore. Further, the statement '4 years back' was a vague statement and it does not get us anywhere in the absence of sufficient proof. Even though the life assured was reported to be an Asthmatic for about 8 years, the insurer could not secure concrete evidence in the form of full details of treatments like name of hospitals/doctors consulted by the life assured, the details of medicines used, details of pathological tests undertaken and the results thereof, etc. Especially, when Sec.45 is applicable, cogent, concrete and sustainable evidence must have been submitted by the insurer to the Insurance Ombudsman to prove their repudiation action. Therefore, by not disclosing the facts relating to surgery, etc., the life assured did not gain anything special vis-a-vis other policyholders. There is, therefore, certainly failure to disclose facts relating to surgery, etc. by the life assured. To this extent, the insurer proved successfully non-disclosure of these facts. It is pertinent to mention here that the life assured also survived for four years from the date of operation (presuming 4 years prior to 03/2001) and had also paid premia for about 2-1/2 years;
- (ix) If Asthma and surgery for lumbar disc prolapse (history of 8 years and 4 years back) as per the hospital records of Manipal Hospital, Bangalore had a real nexus with the cause of death of the life assured on 07.03.2001, the insurer should have obtained and produced independent, cogent and believable opinions from Medical Experts, before the Insurance Ombudsman to drive home its contentions;
- (x) Having looked into the facts and circumstances as discussed above and as all the three ingredients required under 2nd part of Section 45 of the Insurance

act, 1938 were not fulfilled by the insurer, I hold that the repudiation of the claim of the complainant under the aforesaid policy by the insurer is not legal, correct, proper, or justified.

- (xi) **Policy No.361254808:-** Under this policy, the first part of the Sec.45 of the Insurance Act, 1938 is applicable. The insurer can consider repudiation of a claim if there is any untrue averment by the insured in any of the documents leading to issue of the insurance policy. The insurer is not required to prove fraudulent motive on the part of the life assured to repudiate a claim;
- (xii) Incidentally, the policy is covered under warranty clause. The insured was well aware of the surgery he had undergone for lumbar disc prolapse and also being asthmatic, as elaborated by me earlier and he ought to have disclosed the same to the insurer. By not disclosing the vital facts relating to his health, he did not give sufficient opportunity to the insurer for assessing the risk in the right perspective. The repudiation of the claim was also done within 2 years from the date of issue of the policy;
- (xiii) Based on the available medical evidences submitted by the insurer, the repudiation action of the insurer is perfect and justified and does not call for my interference and the complaint is, therefore, dismissed under this policy.

In view of the above reasons, the complaint under Pol.No. 361175099 for Rs.1,00,000 is allowed while complaint under Policy No.361254808 for Rs.80,000 issued in 05/2000 is dismissed.

**Hyderabad Ombudsman Centre
Case No. L-2103/2003-04
Smt.Gulabi S.P.**

Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Sri Sanjeeva R.Poojari, S/o Rama Poojari, a tailor and resident of Koni(Village and Post), took a life insurance policy from, as per details furnished below:-

Policy No. : 621759120
Date of Proposal : 10.01.2001
Date of Acceptance/FPR : 13.01.2001
Date of commencement : 13.01.2001
Sum Assured : 25,000
Plan & Term : 91-16
Date of Death : 29.08.2001
Date of Repudiation : 10.01.2002

FACTS OF THE CASE

Sri Sanjeeva R.Poojari, S/o Sri Rama Poojari, a tailor by profession and resident of Koni Village of Kundapura taluk under Udupi District in Karnataka State, took a Life Insurance Policy from Kundapura Branch of LIC of India, under Udupi Division. The life assured died on 29.08.2001. The cause of death was reported to be heart attack. Smt.Gulabi S.P., who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 10.01.2002, citing the

reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about six months before he proposed for the above policy, he had suffered from '**Diabetes Mellitus**', which he had consulted a medical man and had taken inpatient treatment from a hospital from 13.07.2000 to 05.08.2000. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Further, he had not mentioned the particulars of his previous policy no. 621246929 under question no.5 in the proposal form. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

Smt.Gulabi S.P, the complainant, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee also upheld the decision taken by LIC of India, Udupi Division. Aggrieved with the rejection of the claim, the complainant represented to this office.

DECISION:

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

- a) Sri Sanjeeva R.Poojari, S/o Sri Rama Poojary, working as a tailor and a resident of Koni (Post) of Kundapura Taluk in Karnataka took a New Janaraksha Policy for a Sum Assured of Rs.25,000 under Non-medical Scheme without undergoing medical examination. He had executed the proposal for insurance on 10.01.2001 and the risk under the policy commenced on 13.01.2001. The life assured died on 29.08.2001. The cause of death was reported to be "**Myocardial Infarction**". The duration of the claim was just 7 months only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- b) The claim was repudiated by the insurer as the life assured suffered from Diabetes Mellitus and took treatment in Government Hospital, Kundapura during the period **13.07.2000 to 05.08.2000, which was prior to taking the insurance policy** and suppressed the same while executing the proposal for insurance;
- c) According to the case records obtained by them from Government Hospital, Kundapura, the life assured was admitted there with complaints of high fever and pain in the left lower limb. The diagnosis arrived by the hospital authorities was "**Acute Filarial Lymphangitis with concomittal diabetes**". It was also reported by the hospital authorities that the life assured developed an abscess in **the right thigh for which an abscess drainage was done on 17.07.2000**;
- d) According to the treatment particulars obtained by LIC from Sri Manjunatha Hospital, Kundapura, the life assured was admitted in the hospital on 29.08.2001 and he expired there due to Myocardial Infarction. It was reported by the hospital authorities that the **other diseases which preceded/co-existed were Diabetes Mellitus**;
- e) The admission and treatment of the life assured during 07/2000 to 08/2000 was just six months before taking the insurance policy in January, 2001. These must be well within his knowledge and therefore, he ought to have disclosed them to the insurer to enable them to assess the risk in the right perspective. Instead,

he gave false answers to all the relevant questions in the proposal form, thereby, violating the principle of utmost good faith, which was the governing principle of contract of insurance;

- f) Further, according to the underwriting norms of LIC, had the life assured disclosed the above material facts at the time of taking the insurance policy, they would not have considered the insurance of the life assured under Non-medical Scheme and they would have advised the life assured to undergo medical examination by authorised medical examiner of LIC. This, therefore, affected the assessment of the risk for insurance by the insurer. Based on the findings of the medical reports, the terms and conditions for issue of the policy would be decided by LIC;
- g) According to Mosby's Medical Dictionary (2003) (Page No.670), the implication of Lymphangitis are:"An inflammation of one or more lymphatic vessels, usually resulting from an acute strepto coccal infection of one of the extremities. It is characterized by fine red streaks extending from the infected area to the axilla or groin and by fever, chills headache and myalgia. The infection may spread to the bloodstream. Pencillin and hot soaks are usually prescribed; aseptic technique is important to avoid contagion";
- h) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer. Though the insured suffered from Diabetes Mellitus and took treatment for the same, as reported by the hospital authorities before taking the insurance policy, the insured suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;
- i) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Diabetes Mellitus, prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- j) Therefore, for the reasons mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-2121/2003-04

Sri Prasannakumar

Vs.

Life Insurance Corporation of India

Award Dated 26.2.2004

Sri Gopalappa, S/o Sri Kariyanna, working as 'D' Group employee in Taluk Office at Madhugiri in Karnataka took a life insurance policy from Madhugiri Branch of LIC under Bangalore-I Division, as per details furnished below: -

Policy No. : 614122008
Date of Proposal : 15.09.2001
Date of Acceptance/FPR : 15.09.2001
Date of commencement : 15.09.2001
Sum Assured : 1,00,000
Plan & Term : 14-15
Date of Death : 27.02.2002
Date of Repudiation : 16.01.2003

FACTS OF THE CASE

Sri Gopalappa, S/o Sri Kariyanna, working as 'D' group employee in Taluk Office at Madhugiri in Karnataka, took a Life Insurance Policy from Madhugiri Branch of LIC of India, under Bangalore-I Division. The life assured died on 27.02.2002. The cause of death was reported to be breathlessness and chest pain. Sri Prasanna Kumar, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 16.01.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that before he proposed for the above policy, he had suffered from **Bronchial Asthma** and consulted a doctor and took treatment for the same. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:-

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

- i) Sri Gopalappa, S/o Sri Kariyanna, working as 'D' group employee, in Taluk Office took an Endowment Assurance Policy for a Sum Assured of Rs.1,00,000 by executing the necessary proposal for insurance on 15.09.2001. The risk under the policy commenced on 15.09.2001. The life assured died on 27.02.2002. The cause of death was reported to be "**breathlessness and chest pain**". The duration of the claim was just 5 months only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) The claim under the policy was repudiated by LIC as the life assured was reported to be suffering from Bronchial Asthma and took treatment from a doctor, even before taking the insurance policy;
- iii) According to the treatment particulars obtained by the insurer in their claim forms B and Claim Form No.5152 from the Medical Officer, General Hospital, Madhugiri, the life assured consulted him on **04.08.2001** (prior to taking the insurance policy) and took treatment as out-patient for **Bronchial Asthma**. The life assured consulted him with complaints of breathlessness, cough with expectoration. The doctor prescribed "**Bronchial Asthma, Deriphylene, Betnasol and Gentamycin**". It was also reported by the doctor that the entire complaints/history was reported to the doctor by the patient himself (life assured);

- iv) The consultation and treatment by the life assured at General Hospital, Madhugiri was prior to taking the insurance policy. The disease with which the life assured was suffering and the consultations and treatments for the same were all well within his knowledge, especially, as these occurred under just 1-1/2 months before the date of proposal and therefore, he ought to have disclosed to the insurer all the material facts relating to his health, while effecting the proposal for insurance;
- v) From the foregoing facts of the case, it is evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he suppressed the material facts to the insurer. Though the insured had been suffering from Bronchial Asthma, as reported by the hospital authorities, before taking the insurance policy, the insured suppressed the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;
- vi) Incidentally, the suppression of material fact of his illness of Bronchial Asthma from which the life assured suffered and took treatment prior to taking the insurance policy, has nexus with the cause of death on 27.02.2002;
- vii) It is settled law that the contract of insurance is based on good faith. The information as to the insured having suffered from Bronchial Asthma before the policy was taken and the treatment thereto was very well known to the insured. It is, therefore, for the life assured to give correct information about his health which he did not disclose at that time. This ground of incorrect information and false statements regarding health of the insured make the insurance contract null and void;
- viii) From the foregoing facts of the case, it became evident that the life assured was not in good health at the time of taking the insurance policy from the insurer and he had suppressed the material facts of his ill health intentionally to defraud the insurer. Further, as the insured was on treatment for Bronchial Asthma, prior to taking the insurance policy, the insured should have disclosed these material facts while answering the relevant questions in the proposal form. Therefore, I am of the view that repudiation of the claim by the insurer was right under Sec.45 of the Insurance Act, 1938;
- ix) Therefore, for the reasons mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. L-2053/2003-04
Smt. H. E. Munnannavar
Vs.

Life Insurance Corporation of India

Award Dated 27.2.2004

Sri Guddesh E.Munnannanavar,. S/o Elukoteppa, doing business at Ranebennur in Karnataka took an Endowment Assurance Policy as per details mentioned below:

Policy No. : 630848483
Date of Proposal : 22.10.1998
Date of Acceptance/FPR : 31.10.1998
Sum Assured : Rs.1,00,000
Plan & Term : 14-20
Date of commencement of risk : 28.10.1998
Date of Death : 01.02.1999
Date of Repudiation : 05.08.2000
Policy issued under : Non-Medical Scheme
Cause of death : Paralysis

Sec.45 of the Insurance Act 1938 is not applicable under the claim

BACKGROUND

One Sri Guddesh E.Mannannanavar, S/o Sri Elukoteppa, doing business at Ranebennur in Karnataka took an Endowment Assurance Policy under Non-medical Scheme (without undergoing medical examination) from Haveri Branch under Dharwad Division. The life assured, while submitting the proposal for insurance on 22.10.1998 gave false answers to certain questions relating to his health in the proposal form. It was also stated by LIC that they held indisputable proof to show that even before he proposed the proposal for insurance, he suffered from **HIV+ve and long standing fever** and took treatment from a doctor. Finding the life assured to be guilty of deliberate suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:

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

- i) The life assured took an Endowment Assurance Policy for Rs.1,00,000 on 31.10.1998 under Non-medical Scheme (without undergoing medical examination by authorized medical examiner of LIC) and died due to Paralytic Stroke on 01.02.1999. The duration of the claim was just 3 months only. Since it was a very early claim, the insurer arranged for investigation of the claim. The claim was repudiated by the insurer on 05.08.2000 as the life assured had deliberately suppressed material facts relating to his health before taking the insurance policy in question;
- ii) According to the insurer, even before the life assured proposed the above policy, he suffered from HIV +ve and longstanding fever, consulted a doctor and took treatment for the same from the doctor;
- iii) According to the treatment particulars obtained by the insurer in their claim form no.5152 from Dr.B.M.Ravindra of Sujan Hospital, Ranebennur, the life assured consulted the doctor, as an out-patient, on **03.09.1998** with complaints of **long standing fever** and the duration was reported as **one month**. The diagnosis arrived by this doctor was **"HIV sero positive state with infection"**.

It was also reported by the doctor that the life assured was advised to undergo **western blot method of investigation;**

- iv) The above consultation and treatment thereto by the life assured was **prior to taking the policy.** In other words, the insured executed the proposal for insurance **just after around 50 days of his consultation with Dr.B.Ravindra.** All the above facts were obviously very green in his memory and the insured should have disclosed all these material facts relating to his health condition while answering all the relevant questions of the proposal form for insurance executed by him;
- v) Later, the life assured was admitted in Bapuji Hospital, Davangere on 28.01.1999 and discharged against medical advice on 29.01.1999. The diagnosis arrived by the hospital was cerebro vascular accident. The Microbiology investigation report for HIV & HBsAg by strip method revealed as "Non-reactive" but the **Elisa test revealed 'NON-REACTIVE';**
- vi) According to the underwriting norms of LIC, had the life assured disclosed the above material facts while taking the insurance policy, they would have advised the life assured to undergo special medical tests and the consideration or otherwise of the life assured for insurance would be dependant on the findings of these reports;
- vii) The policy under dispute was taken by the life assured under Non-medical Scheme. As such; more responsibility was cast on the life assured to disclose all the material facts relating to his health to the insurer to enable him to assess the risk in the right perspective;
- viii) Section 45 of the Insurance Act, 1938 is not applicable under this claim. Therefore, the LIC could repudiate a claim if there is any suppression of material fact without establishing fraud on the part of the life assured. The policy was issued under Non-medical Scheme. Hence the information given by the deceased life assured in the proposal form is of much relevance, while underwriting the risk. By suppressing the fact regarding his age in the proposal form, the life assured did not give reasonable opportunity to the insurer to come to correct judgement. Hence, there was a breach of good faith on the part of the life assured;

In view of the reasons mentioned above and in the light of the evidence available on record, the repudiation of the claim by the insurer on the ground that the life assured had suppressed material information is proper, correct and justified and does not warrant any interference at my hands.

In the result, the complaint is dismissed.

Hyderabad Ombudsman Centre

Case No. L-1284/2003-04

Smt. Satla Sunitha

Vs.

Life Insurance Corporation of India

Award Dated 19.3.2004

Sri S.Kumaraswamy, working as driver and resident of Ippegudem village in Warangal District took a life insurance policy from Janagaon Branch of Life Insurance Corporation under Warangal Division, as per details furnished below:-

Policy No. : 681873566
Date of Proposal : 31.03.2000
Date of Acceptance/FPR : 28.03.2000
Date of commencement : 28.03.2000
Sum Assured : 50,000
Plan & Term : 111-15
Date of Revival : 12.11.2001
Date of Death : 05.02.2002
Date of Repudiation : 30.01.2003

FACTS OF THE CASE

Sri S.Kumaraswamy, working as driver and resident of Ippagudem Village in Warangal District took a Life Insurance Policy from Janagaon Branch of LIC of India, under Warangal Division. The life assured died due to fever and stomach ache on 05.02.2002. The policy was in lapsed condition due to non-payment of premium from 03/2001. The life assured got the policy revived on 12.11.2001 by paying arrears of premium and also complying with health requirements prescribed by LIC. Smt. Satla Sunitha, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 30.01.2003, citing the reason that the life assured, while proposing for revival of his insurance policy, gave false answers to certain questions in the personal statement form. It was also stated by the LIC that they held indisputable proof to show that the life assured had suffered from Bilateral Pulmonary Tuberculosis for which he took medical treatment in Hospital during the months 09/2001 and 10/2001. He, however, did not disclose these facts in the personal statement form. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of revival of the insurance policy, the claim was repudiated by LIC in terms of the Declaration signed by the life assured at the foot of the said personal statement form, the revival of the policy was declared void and all the moneys paid towards the revival of the policy was forfeited by the LIC.

DECISION:-

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

- i) Section 45 of Insurance Act 1938 is applicable under the claim. The implication is that the insurer before considering repudiation of a claim must prove not only suppression of material facts but also fraudulent intent on the part of the life assured;
- ii) In the instant case, the life assured took a Bima Kiran Policy in 03/2000 for a sum assured of Rs.50,000. The policy was in lapsed condition due to non-payment of premium due 03/2001 and hence he got the policy revived on 12.11.2001 by paying arrears of premia and submitted health requirements. The insured died on 05.02.2002. The cause of death was reported as Bilateral Extensive Pulmonary Tuberculosis. The duration was just 3 months from revival. Since it was a very early claim, the insurer arranged for investigation of the claim; Their investigations revealed that the insured suffered from Pulmonary Tuberculosis even before revival of the policy but did not disclose the same at the time of revival.

- iii) The LIC obtained the following evidences: - (1) Letter dated 26.03.2002 of the complainant addressed to LIC, Warangal wherein the complainant herself informed that the life assured suffered from tuberculosis even before revival. She also furnished details of consultations/treatments the insured had from different doctors before revival; (2) According to the treatment particulars obtained by the LIC from TB Hospital, the life assured was admitted there on 19.01.2002 as outpatient and on 23.01.2002 as in-patient with complaints of fever, cough with expectoration, shortness of breath (SOB). The duration of ailment was reported as 3 months; (3) The primary cause of death was “**Bilateral Extensive Pulmonary Tuberculosis**” & the secondary cause as “**Respiratory failure**”; (4) Consultation with Dr.N.Narasimha Rao of Warangal on 15.10.2001 wherein the doctor furnished full details of medicines prescribed and (5) Details of the various pathological tests undergone by the life assured prior to revival;
- iv) All the above events when arranged chronologically clearly established the fact the life assured was not keeping good health before revival of the insurance policy and therefore, they must be green in his memory;
- v) According to the underwriting norms of LIC, had the life assured disclosed the material facts at the time of revival, the insurer would have advised the insured to undergo special medical tests and consideration or otherwise of the revival of the policy would be dependent on the finding of those reports;
- vi) The insured had not disclosed his illness relating to **Tuberculosis**. There is fairly certain nexus between this illness and the cause of death. There is therefore, fraudulent suppression of material facts relating to health condition on the part of the life assured. The policy was revived just after 1 month of his treatments. Therefore, this must be well within his knowledge and the life assured ought to have disclosed the same to the insurer. Instead, he suppressed these material facts by answering the relevant questions in negative. The life assured, having reason to believe that something untoward might happen had got the insurance policy revived by suppressing the material facts relating to his serious illness thus rendering the revival void. Therefore, I have to hold for the reasons as aforesaid, and also in the light of the medical evidences available on record as referred to above, that the repudiation of the complainant’s claim for the assured sum and its consequential benefits under the aforesaid insurance policy by the insurer on the ground that the insured had fraudulently suppressed the material facts relating to the health condition of the insured at the time of revival of the aforesaid insurance policy has to be upheld as sustainable on law as well as on facts. Hence; the repudiation of the complainant’s claim for the assured sum and its ancillary benefits by the insurer does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1244/2003-04

Sri Anugu Laxma Reddy

Vs.

Life Insurance Corporation of India

Award Dated 22.3.2004

Sri Anugu Jangaiah alias Anugu Janga Reddy, . S/o Anugu Laxma Reddy, working as Borewell Operator and a resident of Hyderabad took a life insurance policy from City Branch XVI of LIC under Hyderabad Division, as per details furnished below: -

Policy No. : 642136840
Date of Proposal : 24.04.1999
Date of Acceptance/FPR : 30.04.1999
Date of commencement : 28.04.1999
Sum Assured : 2,00,000
Plan & Term : 111-30
Date of Death : 03.05.1999
Date of Repudiation : 31.05.2003 :

FACTS OF THE CASE

Sri Anugu Jangaiah alias Anugu Janga Reddy, S/o Sri Anugu Laxma Reddy, working as Borewell Operator and a resident of Hyderabad, took a Life Insurance Policy from City Branch XVI of LIC of India, under Hyderabad Division. The life assured died on 03.05.1999. The cause of death was reported to be motions and vomitings. Sri Anugu Laxma Reddy, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.05.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that before he proposed for the above policy, he had suffered from **Gastroenteritis** and consulted a doctor and took treatment for the same. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy and in terms of the policy contract and declaration contained in the forms of proposal for assurance, LIC repudiated the claim.

DECISION:-

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

- i) Sri Anugu Jangaiah alias Anugu Janga Reddy, S/o Sri Anugu Laxma Reddy, a resident of Hyderabad and working as Borewell Operator took a Bima Kiran Policy for a Sum Assured of Rs.2,00,000 by executing the necessary proposal for insurance on 24.04.1999. The consideration amount also called as proposal deposit amount Rs.1,727.00 was remitted to LIC on 29.04.1999. The proposal was accepted by LIC on 30.04.1999 and accordingly the first premium receipt was issued by them. The life assured died on 03.05.1999. The cause of death was reported to be "**motions and vomitings**". The duration of the claim was just 4 days only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) The claim under the policy was repudiated by LIC as the life assured suffered from gastroenteritis and took treatment for the same before taking the insurance policy and suppressed these facts by not furnishing correct information on the relevant questions in the proposal and in terms of the policy contract and the declaration contained in the form of proposal for insurance executed by the life assured;
- iii) According to the treatment particulars obtained by the insurer in their claim form B from Dr.B.Narender Reddy of Hyderabad, the life assured consulted him

on 29.04.1999 with complaints of loose motions and vomitings. The duration was reported by the doctor as 3 days;

- iv) According to the certificate dated 21.03.2003 issued by Dr.B.Narender Reddy of Chaitanya Hospital, Hyderabad, the life assured went to him on 29.04.1999 for treatment of gastroenteritis and, accordingly, the insured was treated by him as an out patient;
- v) The complainant himself reported in the claim form A and during the course of the hearing that the life assured died due to motions and vomitings and took treatment from Dr.B.Narender Reddy. The duration of illness was also reported as 3 days;
- vi) It is very much pertinent to mention here that the life assured remitted the consideration amount for insurance on 29.04.1999; and on the same day consulted Dr.B.Narender Reddy for treatment of gastroenteritis. This clearly established the fact that the life assured was not enjoying good health when the proposal for insurance was accepted by the insurer;
- vii) It is useful to refer to the declaration made by the life assured in the proposal for insurance on 24.04.1999 wherein he declared that the statements in the proposal and the declaration shall be the basis of the contract of the assurance between him and the LIC and further agreed to inform the insurer if there is any change in his health before the issue of the first premium receipt. In the instant case, the first premium receipt was issued on 30.04.1999 and the life assured consulted the doctor for gastroenteritis on 29.04.1999. The consultation and the treatment thereto were well within his knowledge and therefore, the insured ought to have disclosed them to the insurer. But the insured deliberately suppressed the material facts and induced the insurer for issue of the policy. But the insurer had reposed utmost good faith in the solemn declaration and the answers to all the questions in the proposal form made by the life assured and issued the policy and entered into a contract of insurance with the insured;
- viii) The evidences obtained by the insurer show that the life assured took treatment for gastroenteritis before issue of the first premium receipt but the life assured concealed the material fact relating to his health condition from the insurer so as to induce the insurer to accept the proposal for issuance of the policy;
- ix) According to the underwriting norms of LIC, had the life assured disclosed the material facts to the insurer, that would have enabled the insurer whether he should accept the risk or be accepted subject to further conditions or not;
- x) It is settled law that the contract of insurance was based on good faith. The information as to the insured suffered from gastroenteritis and the treatment therefor before issue of the first premium receipt must have been informed to the insurer. This ground of incorrect information and regarding the health condition of the insured make the insurance contract null and void;
- xi) From the foregoing facts of the case, it is evident that the life assured was not in good health before issue of the first premium receipt and he suppressed the material facts to the insurer. Though the insured suffered from Gastroenteritis, as reported by the doctor who attended on the life assured, before issue of the first premium receipt and issue of the insurance policy, the insured suppressed

the material facts relating to his health condition from the insurer so as to induce the insurer to accept the proposal made by him for insurance;

xii) In the circumstances of the case, therefore, the deliberate suppression of material facts is very clear and at the same time the fraudulent intention is also very clear since the life assured suppressed the material facts from the insurer as per the declaration executed by him. The insurer was well within its right to invoke Section 45 of the Insurance Act, 1938 in the present case and repudiate the claim;

xiii) Therefore, for the reasons mentioned above and in the light of the medical evidences submitted by the insurer, which were available on record, the repudiation of the claim on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of effecting the insurance policy is legal, proper and correct and does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre

Case No. L-1243/2003-04

Smt. B. Lakshmi Kantamma

Vs.

Life Insurance Corporation of India

Award Dated 24.3.2004

Sri B.Peddanna, businessman and resident of Musunuru village in Nellore District took a life insurance policy from Kavali Branch of Life Insurance Corporation under Nellore Division, as per details furnished below:-

Policy No.	:	840646420
Date of Proposal	:	28.03.1999
Date of Acceptance/FPR	:	30.03.1999
Date of commencement	:	28.03.1999
Sum Assured	:	25,000
Plan & Term	:	91-20
Date of Revival	:	11.01.2003
Date of Death	:	14.01.2003
Date of Repudiation	:	31.03.2003

FACTS OF THE CASE

Sri B.Peddanna, businessman and resident of Musunuru Village in Nellore District took a Life Insurance Policy from Kavali Branch of LIC of India, under Nellore Division. The life assured died due to heart attack on 14.01.2003. The policy was in lapsed condition due to non-payment of premium from 03/2000. The life assured got the policy revived on 11.01.2003 by paying arrears of premium and also complying with health requirements prescribed by LIC. Smt. B. Lakshmi Kantamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 31.03.2003, citing the reason that the life assured, while reviving his insurance policy for insurance, gave false answers to certain questions in the declaration of good health form. It was also stated by the LIC that they held indisputable proof to show that the assured had suffered from coronary artery disease for which he took treatment in a hospital prior to the date of the

revival. He did not, however, disclose these facts in the proposal. Instead he gave false answers: Finding the life assured to be guilty of suppression of material facts relating to his health at the time of revival of the insurance policy, the claim was repudiated by LIC.

DECISION:-

I heard the contention of the insurer and perused all the documents placed before me.

- i) Sri B.Peddanna, businessman and resident of Musunur village in Nellore District took a New Janaraksha insurance policy on 28.03.1999 for a Sum Assured of Rs. 25,000. The life assured died on 14.01.2003. The cause of death was reported to be "**Heart Attack**". The duration of the claim from the date of revival was reported just 4 days;
- ii) Their investigation revealed that the insured was suffering from coronary artery disease even before revival of the policy and was taking treatment for the same. In support of their repudiation, they obtained a certificate/letter dated 18.02.2003 from Dr. N. Prabhakar Naidu of Kavali. They also obtained a statement from Mrs. Suneetha a neighbour of the life assured informing that the life assured was suffering from heart problem since 1 month, prior to his death;
- iii) The life assured, however, suppressed these material facts at the time of revival of the policy. He answered all the relevant questions in the declaration of good health form in negative;
- iv) According to underwriting norms of LIC, had the life assured disclosed the material facts at the time of revival of the policy, LIC would have advised the life assured to undergo some special medical tests and the consideration or otherwise of the insured for revival would be dependant on the finding of these reports. Further, revival would not have been considered under Non- Medical Scheme;
- v) The claim being early, the LIC conducted investigation into the bonafides of the genuineness of the claim. According to the Annexure to the Investigation Report submitted by the investigating official, it is observed that the life assured, was fully aware of his health condition while seeking revival of the policy on 11.03.2004.
- vi) The insured had not disclosed his illness relating to **coronary artery disease**. There is nexus between this illness and the cause of death. There is therefore, fraudulent suppression of material facts relating to his health condition on the part of the life assured. The life assured, suspecting that something untoward might happen had got the insurance policy revived by suppressing the material facts relating to his serious illness thus rendering the revival void. Therefore, I have to hold for the reasons as aforesaid, and also in the light of the medical evidences available on record as referred to above, that the repudiation of the complainant's claim for the assured sum and its consequential benefits under the aforesaid insurance policy by the insurer on the ground that the insured had fraudulently suppressed the material facts relating to the health condition of the insured at the time of revival of the aforesaid insurance policy has to be upheld as sustainable on law as well as on facts and hence; The repudiation of the

complainant's claim for the assured sum and its ancillary benefits by the insurer does not warrant any interference at my hands.

The complaint is, therefore, dismissed.

Hyderabad Ombudsman Centre
Case No. L-1272/2003-04
Smt. C. Varalakshmi
Vs.
Life Insurance Corporation of India

Award Dated 25.3.2004

Sri P.Yella Reddy, Agriculture Extension Officer, O/o Joint Director of Agriculture, Cuddapah and resident of Cuddapah Town took six life insurance policies from Cuddapah Branch of Life Insurance Corporation under Cuddapah Division. Of the six policies, the following three are the policies the insurer repudiated the claims therefor:

Policy No.	651774963	652509354	652518843
Date of Proposal	12.08.96	31.10.2000	28.07.2001
Date of Acceptance/ FPR	31.08.96	31.10.2000	28.07.2001
Date of Risk	28.09.96	28.10.2000	28.07.2001
Plan -Term	121-15	14-13	14-21
Sum Assured	50,000	25,000	25,000
Date of Revival	28.11.2001	-	-
Date of death	17.05.2002	17.05.2002	17.05.2002
Cause of death	Jaundice	Jaundice	Jaundice
Date of Repudiation	17.03.2003	20.03.2003	20.03.2003

FACTS OF THE CASE

Sri P.Yella Reddy, Agriculture Extension Officer, O/o Joint Director of Agriculture, Cuddapah in Cuddapah took six Life Insurance Policies from Cuddapah Branch I of LIC of India, under Cuddapah Division. The life assured died due to Jaundice on 17.05.2002. The policies were in lapsed condition due to non-payment of premium. 'The life assured got the policies revived on 27.11.2001 by paying arrears of premium and also complying with health requirements prescribed by LIC. Smt. C. Varalakshmi, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 31.03.2003, citing the reason under policy nos. 652509354 and 652518843 that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they

held indisputable proof to show that the life assured had suffered from Jaundice and he had consulted a medical man and had taken treatment from a hospital and availed himself leave on grounds of sickness prior to date of proposal. He, however, did not disclose these facts in the proposal. Instead he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, the claims were repudiated by LIC. Further the life assured got his Policy No. 651774963 revived on 28.11.2001 for full sum assured on the strength of a personal statement regarding health. Under this policy the insurer contested that they held indisputable evidence to show that the assured had suffered from jaundice for which he took medical treatment/ operation in hospital prior to revival. He also availed leave on grounds of sickness prior to revival. He did not, however, disclose those facts in his personal statement. Finding the life assured to be guilty of suppression of material facts at the time of revival of the policy, in terms of the declaration signed by him at the foot to the personal statement, the revival under the policy 651774963 was declared void and all money paid towards revival of the policy was forfeited by the insurer.

DECISION:-

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

- i) Sri P.Yella Reddy, Agricultural Extension Officer revived the above policy no. 651774963 on 28.11.2001 which was taken by the insured under the Asha Deep Plan in 08/96. The other two policies viz. 652509354 and 652518843 were taken by the insured in 10/2000 and 07/2001 under the Endowment plan for Rs.25,000 each. The life assured died on ' 17.05.2002. The cause of death was reported to be "**Jaundice**". The duration of the claims from the date of revival was reported just 5 months and 19 days. For the other two policies the duration from the date of acceptance of risk was 1 year 6 month 16 days and 9 months 19 days respectively. Since all the claims were early, they arranged for investigations of the claims;
- ii) Section 45 of Insurance Act 1938, was applicable under Policy Nos. 651774963 & 652509354 whereas the same was not applicable to Policy No. 652518843. The implication is that the LIC has to prove both materiality of the facts suppressed and fraudulent intent on the part of the life assured before repudiating the claims under policy nos. 651774963 & 652509354. But under the Policy No. 652518843 the insurer could consider repudiation of the claim if there was any suppression of material facts relating to issue of the policy without establishing fraudulent intent on the part of the life assured;
- iii) Their investigations revealed that the insured was suffering from jaundice even before revival and also before taking of the policies. In support of their repudiation action, LIC obtained treatment particulars from Dr. P. Bali Reddy of Cuddapah town in F.No. 5152, stating that the life assured first consulted him on 01.04.2000 for duration of 3 months (this consultation was obviously prior to revival of policy no. 651774963 and also prior to taking the policy nos. 652509354 and 652518843);
- iv) Again the life assured consulted Dr. K. Peddanna of Cuddapah on 19.05.2001 (this consultation was, prior to the revival of policy no. 651774963, on 28.11.2001). According to the findings of Dr. K. Peddanna, the life assured was suffering from infective hepatitis on 19.05.2001. Finally in 01/2002, the life assured was admitted in Sai Vani Hospital,

Hyderabad for treatment of cirrhosis of liver. Besides, the life assured availed several spells of leave on grounds of sickness, prior to revival and also prior to issue of the policies;

- v) The above facts, when arranged chronologically, establish the fact that the life assured was not keeping in good health prior to revival/ issue of the policies. And he had deliberately suppressed these material facts to the insurer;
- vi) According to the underwriting of the insurer, the LIC would not consider revival of the policy no.651774963 and also they would not accepted risk under the policy nos. 652509354 and 652518843 till the time the life assured was cured of the illness. In other words, such cases are postponed by the insurer;
- vii) The life assured was a literate person working as a responsible officer in the Government Job. When all these consultations/treatments were well within knowledge, he ought to have disclosed them to the insurer. Instead, he suppressed them which indicated his fraudulent intent also;
- viii) Incidentally, there was nexus between the material facts suppressed to the cause of death of the life assured;
- ix) The admission and treatments the insured had were prior to the taking the insurance policies, which the life assured ought to have disclosed. Instead, he gave false answers and thereby did not give sufficient opportunity to the insurer for assessing the risk in the right perspective;
- x) In this connection it is profitable to refer to the provisions contained in Section 45 of the Insurance Act 1938. The said section provides inter-alia that no policy of Life insurance effected after the coming into force of this Act after the expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issue of the insurance policy was inaccurate or false unless the insurer shows that such a statement was on material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed facts which was material to disclose. The said provision lays down three conditions for the applicability of the second part of the Section 45. (1). Statement must be on a material matter or the insured must have been suppressed facts which it was material to disclose (2). The suppression must have been fraudulently made by the insured. (3). The insured must have known at the time of making the statement that it was false or he/she suppressed facts which it was material to disclose.
- xi) The insured had not disclosed his illness of **Jaundice**. There is nexus between this illness and the cause of death being Jaundice. There are therefore, reasons to believe that there is suppression of material facts relating to the health condition on the part of the life assured. The life assured suspecting that something untoward might happen, had got the insurance policy no. 651774963 revived on 27.11.2001 by suppressing the material facts relating to his illness thus rendering the revival void. Also the life assured knowing fully well about the condition of his health took two other policy nos 652509354 and 652518843 without making true disclosure of his health condition. Therefore, I have to hold, for the reasons aforesaid, and also in the light of the medical evidences available on record referred to above, that the repudiation of the complainant's claims for the assured sums and consequential benefits under the aforesaid insurance policies by the insurer on the ground that the insured had fraudulently suppressed the material facts relating to his health condition at the time of

proposals and also at the time of revival of insurance policy is sustainable in law as well as well as on facts. It is, however, seen that the insurer offered to pay the paid up value of policy number 651774963 to the complainant. The insurer is directed to pay it alongwith ex-gratia of Rs. 5000 as the repudiation took place more than a year ago and as the complainant must have incurred some expenditure to pursue the claim.

The complaint is, therefore, allowed as ex-gratia under Policy No. 651774963 and dismissed under Policy Nos. 652509354 and 652518843.

Hyderabad Ombudsman Centre
Case No. L-1217/2003-04
Smt. N. Lakshamma
Vs.
Life Insurance Corporation of India

Award Dated 25.3.2004

Sri N. Changalraya Reddy, S/o N. Kesavulu Reddy, occupation Milk Vending and a resident of Padipeta village in Tirupati Rural Mandal took a life insurance policy, as per details furnished below:-

Policy No.	:	840346360
Date of Proposal	:	15.03.2002
Date of Acceptance/FPR	:	22.03.2002
Date of commencement	:	22.03.2002
Sum Assured	:	50,000
Plan & Term	:	91-16
Date of Death	:	09.12.2002
Date of Repudiation	:	31.03.2003

Sec.45 of the Insurance Act, 1938 is not applicable under the claim.

FACTS OF THE CASE

Sri N. Changalraya Reddy, S/o Sri N. Kesavulu Reddy, a Milk Vendor by profession and resident of Padipeta (Village & Post) under Tirupati Rural Mandal in Andhra Pradesh State, took a Life Insurance Policy from Tirupati Branch No.1 of LIC of India, under Nellore Division. The life assured died on 09.12.2002. The causes of death as per claimant's statement were head injuries and heart attack. Smt N. Lakshamma, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated his claim on 31.03.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 5 years before he proposed for the above policy, he suffered from '**diabetes mellitus**', for which he had, consulted a medical man and took treatment in a hospital. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:-

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

- i) Sri N.Changalaraya Reddy, a resident of Padipeta (Village), Tirupati Rural Taluk in Andhra Pradesh took a New Janaraksha Policy for a Sum Assured of Rs. 50,000. He had executed the proposal for insurance on 15.03.2002 and the risk under the policy commenced on 22.03.2002. The life assured died on 09.12.2002. The cause of death was reported to be “**sudden head injury**”. The duration of the claim was just 8 months only. Since it was a very early claim, the insurer arranged for investigation of the claim;
- ii) Their investigations revealed that the life assured was suffering from “**Diabetes Mellitus**”, since 3 years, before he proposed the policy for insurance on 15.03.2002 . Since the life assured did not disclose these material facts while executing the proposal for insurance, LIC repudiated the claim;
- iii) The only evidence obtained by LIC in support of their repudiation was a statement- (“**Questionnaire to be completed by a medical practitioner who had treated the deceased in the beginning of the last illness and who was not his last medical attendant**”)- dated 31.03.2003 addressed to LIC, Tirupati Branch by Dr. C. Vara Sundaram, Civil Surgeon, SVRRGG Hospital, Tirupati. This doctor reported that “the life assured was **under his treatment for Diabetes Mellitus since 3 years. He had consulted Dr. Durga Prasad of Gayathri Hospital, Tirupati. The doctor further stated that the life assured had himself reported the history of the disease**”
- iv) The statement of the doctor stating that the life assured was under treatment for Diabetes Mellitus since 3 years **was a vague statement and does not get anywhere in the absence of sufficient proof**. Further, no enquiry was made with Dr. Durga Prasad by the insurer, though he was alleged to have treated the life assured.
- v) The insurer could not obtain concrete evidence in support of the treatments the insured had prior to taking the insurance policy. In any case, this is a case, where benefit of doubt is to be given in favour of the life assured in the absence of any cogent and clear evidence that the life assured was aware of his ill health or he was taking treatment therefor or the symptoms of his illness were manifested in him;
- vi) In this connection, it is profitable to quote the dictum laid down by the Hon’ble Supreme Court of India as to the circumstances under which a claim for the assured sum could be repudiated and upon whom the burden of proof lies;
- vii) “In course of time, the Corporation has grown in size and at present, it is one of the largest public sector financial undertakings. The public in general and crores of policyholders in particular look forward to prompt and efficient service from the Corporation. Therefore, the authorities in charge of management of the affairs of the Corporation should bear in mind that its credibility and reputation depend on its prompt and efficient service. Therefore, the approach of the Corporation in the matter of repudiation of the policy admittedly issued by it should be one of extreme care and caution. It should not be dealt with in a mechanical and routine manner”;
- viii) The life assured in the present case was a milk vendor and took a policy under New Janaraksha Policy for a sum assured of Rs.50,000. The complainant and the life assured both were of rural background and they belong to a poor family

without much help from any quarter; and the repudiation of the claim should naturally affect the complainant adversely;

- ix) In the present case, considering the totality of circumstances as referred to above, I find that the repudiation of the claim is unsustainable on law as well as on facts as it is without sufficient reason. Hence, I am of the opinion that it is just and proper, to meet the ends of justice, to direct the insurer to make payment of the refund of premium collected by the insurer to the complainant under the policy as Ex-gratia invoking Rule 18 of the Redressal of Public Grievances Rules 1998 on humanitarian grounds. The insurer is, therefore, directed to settle the claim to the complainant in full and final settlement of the claim.

The complaint is, therefore, as “Ex-gratia”.

Hyderabad Ombudsman Centre

Case No. L-1232/2003-04

Smt. Ch. Kameswaramma

Vs.

Life Insurance Corporation of India

Award Dated 26.3.2004

Sri Chilakala Srinivasulu Reddy, S/o Sri Chilakala Venkata Reddy, a resident of Buchireddipalem under Nellore District and doing business took a life insurance policy, details of which are mentioned below: -

Policy No.	:	650928391
Date of Proposal	:	22.12.1991
Date of Acceptance/FPR	:	28.12.1991
Sum Assured	:	Rs.25,000
Plan & Term	:	75-20
Date of Death	:	25.01.2003
Date of Repudiation	:	31.03.2003
Cause of death	:	Variceal bleed-Cirrhosis liver

Section 45 of Insurance Act 1938 is applicable under the claim

BACKGROUND

The life assured late Sri Chilakalka Srinivasulu Reddy, S/o Sri Chilakala Venkata Reddy, a resident of Buchireddipalem under Nellore District took the above policy from Nellore-II Branch under Nellore Division, of LIC of India, as per the details furnished. The policy was in a lapsed condition due to non-payment of premiums due from 28.12.1999. The insured got his policy revived on 29.03.2001 by paying the arrears of premium with interest and submitted a declaration of good health form. The revival was considered under Non-medical Scheme (without undergoing medical examination by authorised medical examiner of LIC). The insured died on 25.01.2003 due to variceal bleed-cirrhosis liver. The duration of the claim from revival was 1 year and 9 months. The claim under the policy was repudiated by LIC on the grounds of suppression of material facts, as the life assured did not disclose material facts relating to his treatment for Diabetes Mellitus with which he suffered prior to revival of the insurance policy. Smt. Ch. Kameswaramma, the nominee and complainant under the policy, represented to

Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claim, the complainant represented to this office. A personal hearing was arranged on 24.03.2004 at Tirupati. Smt. Ch. Kameswaramma, the complainant herself attended the hearing. Sri Venkateswara Reddy, Brother of the life assured assisted the complainant during the course of the hearing. Sri T.Easwara Reddy, A.O. (Claims) LIC, Nellore Division represented the LIC.

DECISION:

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

- (i) The life assured took a money back policy on 28.12.1991 for a sum assured of Rs.25,000. The policy remained in a lapsed condition due to non-payment of premiums due from 28.12.1999. The life assured got his policy revived on 29.03.2001 by paying the entire arrears of premia and also submitted a declaration of good health form. Later, he died on 26.01.2003. Though the total duration of the claim was 11 years & 1 month, duration of the claim from revival date was 1 year & 9 months. Since it was an early claim (less than 2 years' duration from revival date), the insurer arranged for investigation of the claim;
- (ii) Sec.45 of the Insurance Act, 1938 was applicable under the claim as the claim was repudiated by the insurer on 31.03.2003, as per their repudiation letter submitted. The implication is that the insurer, before considering repudiation of a claim, has to not only prove suppression of material facts but also fraudulent intent on the part of the life assured in defrauding the LIC;
- (iii) LIC repudiated the claim as the life assured was reported to have suffered from Diabetes Mellitus and taken treatment for the same in a hospital for three years, prior to revival of the policy;
- (iv) Before discussing the facts and circumstances and the documentary evidence available on file, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The said section lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;

- (v) In support of their repudiation action, the only evidence the insurer obtained was the treatment particulars in their claim forms B/B1 from Bollineni Super Speciality Hospital, Nellore. According to these forms, the life assured was admitted in the hospital on 24.01.2003 with complaints of blood vomits of one day and expired there on 25.01.2003. The diagnosis arrived by the hospital authorities was Cirrhosis liver. It was reported by the hospital authorities in the claim forms that "around 5 years back - Dr. Anil Kumar Reddy treated the life assured for diabetes, as reported by the patient himself'. The other diseases which co-existed or preceded were Diabetes. The primary cause of death was Variceal bleed and the secondary cause of death was Cirrhosis liver, as furnished by the hospital authorities;
- (vi) But it is seen that the insurer could not obtain any case sheet from Dr. Anil Kumar Reddy, who was reported to have treated the life assured for diabetes for 5 years before admission in the above hospital. The insurer also could not obtain and submit full particulars of treatments relating to diabetes like details of medicines, prescriptions, reports of pathological tests (like blood sugar test). etc. to sustain their repudiation action. This is very much essential, especially, when repudiation was done after 2 years and 2nd part of Sec.45 was applicable;
- (vii) The cause of death was variceal bleed - cirrhosis liver. But the insurer failed to prove that that the cause of death of cirrhosis liver with which he died had nexus with diabetes by producing acceptable medical evidence;
- (viii) The statement that the life assured took treatment for diabetes from Dr. Anil Kumar Reddy for 5 years is a vague statement and it does not get us anywhere in the absence of sufficient proof;
- (ix) Having regard to the facts and circumstances as discussed above and also the manner in which the claim made by the complainant under the aforesaid insurance policy was dealt with by the insurer, without taking note of the ground realities, I am of the view that it is only fit and proper to direct the insurer to settle the claim;
- (x) Therefore, for the reasons as mentioned above, I hold that the repudiation of the claim by the insurer is not legal, correct, proper, or justified.

The complaint is, therefore, allowed.

Hyderabad Ombudsman Centre

Case No. L-1234/2003-04

Smt. G. Sasi

Vs.

Life Insurance Corporation of India

Award Dated 26.3.2004

Sri G. Venkaiah, working as Assistant Commercial Officer, Nellore District took a life insurance policy from Nellore Town Branch No. II of LIC under Nellore Division, as per details furnished below: -

Policy No. : 840601788
Date of Proposal : 18.02.2001
Date of Acceptance/FPR : 27.02.2001

Date of commencement : 28.10.2000 (Dated Back)
Sum Assured : 1,00,000
Plan & Term : 14-10
Date of Death : 23.09.2002
Date of Repudiation : 25.02.2003

FACTS OF THE CASE

Sri G.Venkaiah, working as Assistant Commercial Officer, Nellore District at Nellore in Andhra Pradesh, took a Life Insurance Policy from Nellore Town Branch No. II of LIC of India, under Nellore Division. The life assured died on 23.09.2002. The cause of death was reported to be Cardiac Arrest. Smt G. Sasi, who is the nominee and complainant under the policy, lodged a claim with the LIC. The LIC repudiated her claim on 25.02.2003, citing the reason that the life assured, while proposing for insurance, gave false answers to certain questions in the proposal form. It was also stated by the LIC that they held indisputable proof to show that about 3 years before he proposed for the insurance policy he had suffered from diabetes and he had taken treatment for the same from a medical man. He, however, did not disclose these facts in the proposal. Instead, he gave false answers. Finding the life assured to be guilty of suppression of material facts relating to his health at the time of taking the insurance policy, LIC repudiated the claim.

DECISION:-

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

- i) Sec.45 of Insurance Act, 1938 is not applicable to the claim. The implication is that the insurer can consider repudiation of claims if there is suppression of material facts relating to consideration of insurance.
- ii) The evidence submitted by the insurer is in the form of a medical certificate dated 10.02.2003 issued by Dr. N.R.Sai Kumar, Nellore. The doctor in his statement in Form No.5152 mentioned that the life assured was a known patient of diabetes mellitus since 4 years. The insurer obtained only a certificate but they did not obtain corroborative evidence in the form of prescription and medicines prescribed, pathological reports;
- iii) The insurer also obtained "Medical Attendant's Certificate and Certificate of Hospital Treatment" in claim form B and B 1 from Dr. P. Murali Sankar Reddy of Anasuya Heart Care Centre, Nellore. The life assured was admitted in the above hospital on 23.09.2002 with complaint of chest pain. The life assured died due to cardio respiratory arrest in the same hospital while receiving treatment on the same day. The statement of the doctor made a mention of Diabetes Mellitus (Denovo) to have coexisted or preceded the terminal disease. However, there was no corroborative evidence available for the ailment diabetes mellitus alleged by the LIC to have been existed with the life assured 3-4 years prior to the date of taking the policy;
- iv) The insurer has not submitted any evidence i.e. particulars of treatment taken for the diabetes etc., for the period prior to the date of taking the policy. Moreover the life assured was examined by the panel medical examiner of LIC at the time of execution of the proposal. The medical examiner did not find any adverse features. Thus I find that there was no malafide intention on the part of the life assured.

- v) According to the leave record submitted by the complainant it was observed that the life assured did not avail medical leave on sick grounds prior to the taking of the policy. This evidence suggests that the deceased life assured was not in a bad state of health prior to the execution of the proposal for insurance;.
- vi) In view of the above, and in view of the fact that according to insurer's own admission in their own administrative instruction's, even in cases of early claims, fraud on the part of the life assured has to be brought out for repudiation, I am of the view that ends of justice would be adequately met if the insurer accepts the claims for a sum Rs.50,000 as 50 % of the face value of the policy under Ex-gratia.
- vii) I therefore direct the insurer to settle the claims for a total sum of Rs.50,000 under the policy Ex-gratia, invoking rule 18 of the Notification Governing the Scheme of Insurance Ombudsman.

Hyderabad Ombudsman Centre

Case No. L-1219/2003-04

Smt. M. Rama Devi

Vs.

Life Insurance Corporation of India

Award Dated 26.3.2004

Sri Marella Kalesha, S/o Sri M.Subbarayudu, working as a lecturer in VRS & YRN College, Chirala took two life insurance policies, details of which are mentioned below: -

Policy No.	:	840928811	841948225
Date of Proposal	:	29.04.2000	16.08.2001
Date of Acceptance/FPR	:		30.04.2000 20.08.2001
Sum Assured	:	Rs.50,000	Rs.1,00,000
Plan & Term	:	14-10	14-10
Date of Death	:	01.01.2003	
Date of Repudiation	:	28.03.2003	
Cause of death	:	Heart Attack	

BACKGROUND

The life assured late Sri Marella Kalesha, S/o Sri Marella Subbarayudu, working as a lecturer in VRS & YRN College, Chirala took two life insurance policies from Chirala Branch of LIC under Nellore Division, as per the details furnished. The insured died on 01.01.2003 due to heart attack. The duration of the 1st claim was 2 years & 8 months and that of the second claim was just 1 year & 4 months only. The claim under the 1st policy was repudiated by LIC on 28.03.2003 on the grounds of suppression of material facts relating to his earlier insurances including Policy No.840920044 taken in 03/1999. Similarly, claim under 2nd policy was repudiated by LIC on 28.03.2003 on the grounds of suppression of material facts relating to his earlier insurances including the one taken in 04/2000 (840928811). Smt. M. Ramadevi, the nominee and complainant under the policies, represented to Zonal Office Claims Review Committee, Hyderabad for review. The ZO Claims Review Committee upheld the decision taken by LIC of India, Nellore Division. Aggrieved with the rejection of the claims, the complainant represented to this office. A personal hearing was arranged on 24.03.2004 at Tirupati. Smt. M. Rama

Devi, the complainant, did not attend the hearing. However, one Sri G. Chenchu Ramaiah, colleague of the life assured duly authorised by the complainant attended the hearing. Sri T.Easwara Reddy, A.O. (Claims) LIC, Nellore Division represented the LIC.

DECISION :

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

- (i) The life assured late Marella Kalesha, S/o Sri Marella Subbarayudu, working as a lecturer in VRS & YRN College, Chirala took two life insurance policies on 29.04.2000 for a sum assured of Rs.50,000/- and 20.08.2001 for a sum assured of Rs.1,00,000/- respectively. He died on 01.01.2003. The duration of the claims was 2 years & 8 months and 1 year & 4 months. The insurer arranged for investigation into the bonafides of the claims;
- (ii) Both the above claims were repudiated by LIC on the ground that the life assured, while proposing the insurance policies, deliberately suppressed material facts relating to earlier insurances held by him to avoid special medical tests, which have a bearing on the assessment of the risks;
- (iii) **Policy No. 840928811:-** Section 45 of the Insurance Act 1938 is applicable under the claim. According to LIC, while proposing this policy, the life assured suppressed material facts relating to earlier insurances held by him. In particular, the policy no. 840920044 taken in 03/1999, was not disclosed while executing the proposal for insurance policy in dispute. According to the underwriting norms of LIC, had the life assured disclosed the earlier insurance taken in 03/1999, the insurer would have called for ECG since the sum under consideration would come to Rs.1,50,000 and the underwriting decision would have been different. Incidentally, the life assured died due to heart attack which had a nexus with the requirement of ECG report. The ECG report would have shown the abnormality, if any in the heart. Since the information suppressed was material to the assessment of risk, the insurer repudiated the claim.
- (iv) Before discussing the facts of the case further, it is useful to refer to the provisions contained in Section 45 of the Insurance Act, 1938. The said section provides, inter-alia, that no policy of life insurance effected after the coming into force of this act after expiry of two years from the date on which it ' was effected be called in question by the insurer on the ground that a statement in the proposal for insurance or any report of a medical officer or a referee or a friend of the insured or any other document leading to the issuance of the insurance policy was on a material matter or the insured suppressed a fact which it was material to disclose and that it was fraudulently made by the insured and that the insured knew at the time of making it that the statement was false or that the insured suppressed the facts, which it was material to disclose. The said section lays down three conditions for the applicability of the second part of Section 45. (1) Statement must be on a material matter or the insured must have suppressed facts which it was material to disclose (2) The suppression must be fraudulently made by the insured (3) The insured must have known at the time of making the statement that it was false or the insured suppressed facts which it was material to disclose;
- (v) The life assured was medically examined by the panel doctor of LIC and found the life assured to be medically fit for insurance. The insurer also could not produce any proof relating to the adverse health condition of the life assured prior to taking the insurance policy. Instead, the insurer chose to repudiate the claim simply on the pretext that the insured did

not divulge information relating to earlier insurance policy which was taken by him in the same Chirala Branch;

- (vi) The expressions "sum under consideration" etc. are to be better read and understood by the insurance intermediaries than to be imagined by a layman like the deceased life assured. Further, the LIC Agent and the LIC Development Officer should have properly enquired with the life assured as to the details of his previous insurance policies, if any and explained the implications of their non-disclosure;
- (vii) It is very much pertinent here to mention that the insurer has not proved or even indicated about any adverse health condition of the insured prior to the date of his death;
- (viii) The Life Insurance Corporation of India today proclaims that all its operations are computerized. Even with so much of advanced technological developments, it is sad that they have no system to enlist at a stretch, the full insurance particulars of a customer. The sum under consideration and the possibility of calling for ECG etc. are matters exclusively meant for the insurer and such procedural matters should have no bearing on the claim of a customer who is not expected to know any of these technical and purely official matters of the insurer;
- (ix) Having regard to the overall circumstances of the case, I have no hesitation to hold that the repudiation of the claim by the insurer is unreasonable and unjust especially when the insurer could not prove fraudulent intent on the part of the life assured beyond doubt. I, therefore, direct the insurer to settle the claim,
- (x) **Policy No.840928811:-** In the instant case, Sec.45 of the Insurance, Act, 1938 was not applicable. The implication is that the insurer reserves the right to repudiate the claim if there is any untrue averment in any of the documents leading to issue of the policy. The insurer need not prove fraudulent intent on the part of the life assured. Further, the policy is governed by warranty clause also;
- (xi) It is a settled law that the contract of insurance is a contract of utmost good faith. Therefore, it is incumbent on the insured to disclose all the material facts to the insurer to enable him to assess the risk in the right perspective. In the instant case, the insured violated the principle of utmost good faith;
- (xii) Being a literate person and having total awareness about insurance, the life assured ought to have disclosed the material facts relating to insurance especially taken by him just one year back which would have enable the insurer to assess the risk. Instead, he failed to furnish correct information to the relevant questions in the proposal form:
- (xiii) In view of the above facts, I hold the repudiation action of the insurer is just, proper and correct and does not call for my interference. The complaint is accordingly dismissed.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/TVM/08/2003-04
Shri. J. Babu

Vs.

Life Insurance Corporation of India

Award Dated 6.10.2004

Shri. J. Babu, S/o. Late C. Omana, holder of policy no: 782170061 approached the Insurance Ombudsman, Kochi as LIC of India, Trivandrum Divisional Office had rejected her claim for the death benefits under the policy on the life of his mother. LIC of India had repudiated the claim on the ground that the insured had fraudulently suppressed material facts relating to the health condition of the insured at the time of revival of the policy. The nominee pleaded that the information LIC collected at the time of investigation that the assured was undergoing treatment at Medical College Hospital, Thiruvananthapuram was wrong and was collected from his enemies. He prayed for suitable orders directing the insurer to settle the claim. The insurer contended that the policy was revived after paying three quarterly premiums with interest, DGH and Medical Record. In the declaration of good health, the claimant had stated that she was not having any diseases, she had not undergone any operation and her state of health was good. The Insurance Ombudsman held that the statements in the DGH were false and that she had undergone surgery for Cystogastrostomy four years ago and was suffering from diabetes as per the hospital records. The policy was revived by the insurer believing the statements in the DGH as true. There was fraudulent misrepresentation on the part of the life assured and so, the insurer was right in repudiating the claim.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/EKM/09/2003-04
Shri. J. Ramankutty
Vs.
Life Insurance Corporation of India

Award Dated 10.10.2004

The complainant, Shri. T. Ramankutty, husband of late Girija K., holder of policy No. 773524445 approached the Insurance Ombudsman, Kochi as LIC of India, Ernakulam Division had repudiated her claim for benefits under the policy consequent to death of his wife. LIC of India had repudiated the claim on the ground that life assured had suppressed material facts relating to her health at the time of insurance. The nominee, the complainant, wanted the Insurance Ombudsman to interfere in the matter and pass Orders in favour of him for sum assured and other benefits under the policy. The contention of LIC was that the life assured had undergone treatment for Chronic Bronchial Asthma with acute exacerbation. She had been admitted to the West Fort Hospital, Thrissur and had undergone treatment there. As the illness was clearly established, the claim was repudiated for non-disclosure of material facts. The Insurance Ombudsman held that there was suppression of material facts relating to the health condition of the insured at the time of the proposal, the insurer is entitled to avoid the contract of insurance. The insured was aware of the fact that she was having acute bronchitis and it had not cured, at the time of proposal and she had suppressed those facts. Therefore, the contention of the complainant that he was entitled to get the assured sum and its ancillary benefits from the insurer is not legally and factually tenable.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/EKM/10/2003-04
Shri. D. Gopalakrishnan
Vs.
Life Insurance Corporation of India

Award Dated 27.10.2004

Shri. D. Gopalakrishnan, husband of late K. P. Rajalakshmi, holder of policy no: 773048192 with LIC of India approached the Insurance ombudsman Kochi for getting his grievances redressed. LIC of India had repudiated his claim stating that the life assured had made deliberate misstatement and withheld material information regarding her health at the time of getting her

policy revived. The life assured had signed a declaration of good health on 15.10.2001 on the basis of which the policy was revived. The life assured was pregnant at that time which was proved through a pregnancy test on 01.10.2001 as per the copy of hospital records produced by the insurer. The claimant stated that the life assured was not aware of the fact that she was pregnant at the time of signing the DGH. The Insurance Ombudsman after analysing the statements of both parties and the hospital records held that the life assured could have known that she was pregnant at the time of signing the DGH as pregnancy was proved before that date at the hospital. This was a material fact regarding her health and she had suppressed it from the insurer at the time of signing the DGH. Her date of last menstruation was also wrongly written by her in the DGH to mislead the insurer. The Insurance Ombudsman held that as she was suppressed the material facts, the contention of the complainant that he was eligible for policy money is not legally and factually tenable. The insurer is correct in repudiating the claim, held the Insurance Ombudsman.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/TVM/11/2003-04
Smt. Prasanna Kumary Amma
Vs.
Life Insurance Corporation of India

Award Dated 05.11.2003

Smt. Prasanna Kumary Amma, wife of late B. Mukundan Pillai who had an insurance policy no: 82217688 with LIC of India, Karunagapally Branch under Trivandrum Division approached the Insurance Ombudsman, Kochi as LIC had repudiated her claim for sum assured under the policy. LIC had repudiated the claim on the ground that the insured suppressed material facts relating to his health at the time of the proposal. The Life Assured was a diabetic patient for 15 years and died of breathlessness on 24.02.2002 after taking the policy on 09.07.2001. The wife of the deceased / nominee submitted that she did not know whether the insured had diabetes. The insured had no other illness and was perfectly healthy. He was taken to a Hospital in Thiruvananthapuram, a week prior to his death. LIC's contention was that the insured had been suffering from diabetes for the last 15 years and they had produced certificates of hospital treatment to buttress its contentions. The life assured had not disclosed this in the proposal form and so they had repudiated the claim. Nothing was payable under the policy as the policy had lasted only for 7 months. Insurance Ombudsman held that there was suppression of material facts relating to his health by the insured which was material to the risk. He held that the insurer is entitled to avoid the contract and the action of the insurer is legally and factually tenable.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/KKD/156/2003-04
Smt. Ajithakumari M.
Vs.
Life Insurance Corporation of India

Award Dated 28.11.2003

Smt Ajithakumari M., W/o. Late P. Sukumaran, holder of Policy No: 791514499 approached the Insurance Ombudsman, Kochi as LIC of India had repudiated her claim on the policy of her late husband. Her contention was that LIC had settled claims on other four policies of the deceased policyholder while repudiating this claim. She wanted LIC to settle her claim on this policy also even though her

husband had committed suicide within one year from the date of commencement of the policy. LIC had repudiated the claim on the ground that the life assured had committed suicide within one year from the date of policy. The date of commencement of the policy was 18.03.2001 and the date of suicide was 20.11.2001. As per condition No: 6 of the policy, nothing is payable. The Insurance Ombudsman held that death was within the period of one year and the cause of death was proved as suicide. The Clause 6 of the policy condition apply in this case. The complainant is not liable to get any benefit under the policy. The contention of the claimant that since the other claims on the life was settled by LIC does not merit acceptance since the said policies had not attracted the application of Clause No: 6 of the policy condition. The complaint was thus dismissed

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/KTM/13/2003-04
Smt. Rethy
Vs.
Life Insurance Corporation of India

Award Dated 05.12.2003

As LIC of India had repudiated a claim on a policy No: 391426742 on the life of her late husband, Smt S. Rethy approached the Insurance Ombudsman, Kochi for redressal of her grievances. The claim was repudiated on the ground that the assured had suppressed material facts relating to his health in the proposal form. The deceased was suffering from Chronic Liver Disease and allied diseases and was taking treatment since last 15 years, according to the insurer. The complainant submitted that the assured was not aware of anything about his health condition and had not willfully suppressed any material facts from the insurer. According to the claimant, the policy was taken by her late husband on compulsion of the LIC Agent. LIC of India produced proof from Medical College, Trivandrum in order to prove that the life assured was undergoing treatment since 1987 prior to the date of proposal. The policy was on non-medical basis. The Insurance Ombudsman held that the life assured had suppressed facts regarding his health at the time of proposal. He had not disclosed facts which were material regarding his health which he knew at the time of proposal. No right or liability flows from such a contract is sustainable on law as well as on facts. The decision of the insurer to repudiate the claim does not warrant the interference of the Insurance Ombudsman, Kochi. The case was disposed on merits.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/19/2003-04
Smt. Thankamani Amma
Vs.

Life Insurance Corporation of India

Award Dated 31.12.2003

Smt. Thankamani Amma, W/o. Late G. Narayana Pillai approached the Insurance Ombudsman, Kochi as LIC of India had rejected her claim on the policy No: 781879015 on the life of her husband. The Insurer had rejected the claim on the ground that the insured had suppressed material facts relating to the health of the insured at the time of revival of the policy. The insured died within 14 months of revival of the policy. He was undergoing treatment in various hospitals even before

the date of revival for treatment of Cancer. LIC had produced ample proof from the hospitals to prove their contention. The Insurance Ombudsman held that revival is a new contract and the insured had suppressed facts relating to his health at the time of revival which were material to the risk. The insurer is entitled to repudiate the claim of the complainant for the assured sum and its ancillary benefits under the contract of insurance. The complaint is thus disposed of on merits as aforesaid.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/KKD/15/2003-04
Shri. K. Janardhanan
Vs.
Life Insurance Corporation of India

Award Dated 07.01.2004

The above complaint was filed by Shri. K. Janardhanan, "Valsalalayam", Ambilad Post, Koothuparamba now residing at Payyanur in Kannor District of Kerala for and on behalf of his minor son Master C. K. Sachin under Rule 12(1) (a) and Rule No.:12(1)(b) read with Rule 13 of the Redressal of Public Grievances Rules 1998 against the Kozhikode Divisional Office of LIC challenging the decision of the insurer in having repudiated/rejected the claim of the complainant under Policy No. 792437444 for a sum assured of Rs. 50,000/- held by the complainant's wife, late Smt. Valsala Kumari on the ground that the life assured committed suicide within one year from the date of commencement of risk under the policy cited herein. The complainant's appeal to the higher office of the insurer was also rejected.

The policy No : 792437444 was under the Asha Deep II Plan of LIC (Table 121) for a period of 15 years. The date of commencement of risk under the policy was 28.02.2001 and the Monthly premium payable was Rs. 321/- under the salary savings scheme as the life assured was a teacher at the NNLP School, Koothuparamba. The proposal was dated 27.02.2001 and the initial deposit towards the first premium was remitted at the Tellicherry Branch II of the insurer on 28.02.2001. The proposal, although dtd. 27.02.2001, was received by the insurer on 28.02.2001. The life assured, Viz. C.K.Valsala / Valsalakumari committed suicide by hanging herself with plastic rope from the rafter of her office room at home at about 12 noon on 27.02.2002 reportedly due to some mental agony. The police/post mortem reports had also confirmed the findings.

The complainant contended that the policy condition no : 6 under which the claim was repudiated by the insurer was not made known to the insured effectively, expressly and legibly. The complainant also alleged that the nominee under the policy was a minor and rejected the claim as the suicide took place just day one earlier to 28.2.2002 to complete one year of the policy which was illegal and against public policy.

On verification of the facts, it was found that the insured was not a novice to the concept of insurance. She had four other policies and the LIC had settled a total amount of Rs.2,36,690/- under all those policies together. The insured was educated and she was also a teacher by profession.

Since the life assured committed suicide on 27.02.2002 at about 12 noon which was after the commencement of risk on 28.02.2001 but before the expiry of one year from the date of the policy i.e. 09.03.2001, the condition no : 6 of the insurance policy was on all fours applicable to the facts of the case on hand.

Since the suicide clause - as enshrined in the policy was found justifiably applicable in this case, the repudiation / rejection of the claim by the insurer was upheld by the Insurance Ombudsman.

The complaint was dismissed.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/EKM/16/2003-04
Shri. K. C. Sunny
Vs.
Life Insurance Corporation of India

Award Dated 3.02.2004

Shri. K. C. Sunny, Kalluveetil House, Karikattukara Lane, Kuriachira Post, Thrissur had preferred a complaint before the Insurance Ombudsman, Kochi, under Rule 12(1) (a) & Rule 12(1) (b) read with Rule 13 of the Redressal of Public Grievances Rules 1998 against the Ernakulam Division of LIC challenging the decision of the insurer in having repudiated the claim of the complainant under Pol.No.771972667 held by his wife

Smt. C. K. Santha on the ground that the deceased life assured had suppressed material facts relating to her health at the time of revival of the said insurance policy on 3.4.2002. Smt. C. K. Santha was an Asst. Educational Officer by profession. The above mentioned insurance policy held by Smt. C. K. Santha was under the KGSD Scheme of LIC and the life assured herself was the Pay Drawing Officer. She had three insurance policies altogether. However, the premium under the complaint, Policy No. 771972667, was not being deducted by the clerk of the office and it was reportedly not noticed by the life assured Smt. C. K. Santha although she was the Pay Drawing Officer. The policy commenced on 9.11.90 and it lapsed for non-recovery of premia from November 2000 onwards. The said policy was revived on 3.4.2002 on the basis of a personal statement of health submitted by the life assured declaring that she was hale and hearty. The said personal statement of health was dated 27.3.02. However, as per the records in, June 2000 itself the life assured was afflicted with a fatal disease of breast cancer

As per the medical records procured by the insurer during claim investigation, it was found that the life assured had taken treatment from the Elite Mission Hospital, Thrissur-680007 during the period from 25.9.2000 to 5.10.2000. The life assured had also taken treatment from the Amala Cancer Hospital, Amala Nagar, Thrissur from where she had received radiation treatment. Infact, at the time of revival of the said insurance policy, the life assured was at the Amala Cancer Hospital. The life assured was reportedly admitted to the Amala Cancer Hospital, a week prior to her death and she died in the said hospital itself on 3.4.2002 at 3,30 p.m, Surprisingly, although the declaration of good health submitted to the LIC for revival of the complaint policy was dated 27.3.2002, the policy was revived by paying the arrears of premia only on 3.4.2002 at 2.58 p.m., in other words, on the date of death - a few minutes prior to the death. The first unpaid premium under the policy was 11/2000.

The Declaration of good health being dated 27.3.2002 and the date of death being 3.4.2002, it was nobody's case that the deceased life assured was not able to comprehend the contents of the said declaration, as she was fully conscious on 27.3.2002. An educated person like the life assured could not forget that she was suffering from Invasive Carcinoma - Rt. breast and that she had even received

radiation treatment from the Hospital. Obviously, the suppression of material facts was quite evident from misleading statement of good health dt. 27.3.2002. The complainant had in fact made it clear during the hearing on 18.11.2003, that the deceased life assured was fully aware of her disease after the operation in the year 2000 and the Biopsy report was also received towards the end of the year 2000.

As the mala fide intention in getting the policy revived on 3.4.2002 i.e, the date of death being very clear, the Insurance Ombudsman found that there was no justification in interfering with the decision of the insurer to repudiate the revival. However, the insurer had already offered the pre-revival paid-up value and bonus already accrued upto the date of pre-revival of the policy to the complainant and it was upto him to receive it from the insurer.

As aforesaid, the suppression of material facts at the time of revival being very clear, the revival repudiation of the policy, by the insurer was upheld by the Insurance Ombudsman and the complaint was dismissed as meritless.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/KKD/17/2003-04
Shri. T. Sivanandan
Vs.
Life Insurance Corporation of India

Award Dated 10.02.2004

One Shri. T. Sivanandan, 2/19, "Sunitha". East Hill, Post West Hill, Kozhikode-673 005, had come up with the above complaint against the Kozhikode Division of the Life Insurance Corporation of India under Rule No. 12(1) (a) & 12(1) (b) read with Rule No.13 of the Redressal of Public Grievances Rules 1998 challenging the decision of the insurer in rejecting the claim of the complainant consequent on the death of the complainant's son : Shri. P. M. Sujith Kumar, who had proposed for an insurance of Rs.1 lakh vide his proposal dated 16.1.1993 but, who, unfortunately died in a road accident at Kozhikode on 19.1.2003; stating that the said proposal was received by the insurer through the agent only on 27.1.2003 and, therefore, there was no valid contract of insurance existing between the insurer and the life proposed.

Shri. Sujith Kumar died at the Medical College Hospital, Kozhikode on 19.1 .2003. The first premium deposit was made at the Branch I, Kozhikode of LIC on 16.1.2003 at 11.45 A.M. Originally, the contention of the agent was that although the proposal was given to him by the party on 16.1 2003, the age proof was obtained only subsequently and, therefore, he could not submit the proposal to the office on 16.1.2003 itself. Besides, the agent was also away for training and could not go to the Branch Office on 16.1.2003, 17.1.2003 and 18.1.2003. The accident was in the night on 18.1.2003 and the party died on 19.1.2003. The agent had reportedly come to know about the accidental death of the party only through the Newspapers on 19.1.2003 and he was in a dilemma as to what could be done with the proposal. However, with a letter explaining the circumstances for his failure to submit the proposal on 16.1.2003, he submitted the proposal to the Branch I, Calicut of insurer on 27.1.2003. The insurer did not register the proposal on 27.1.2003, as the party was already dead on 19.1.2003.

However, the agent's version had undergone a series of changes subsequently when the insurer had called for his explanation. Vide his letter dt. 10.3.2003, received by the insurer along with the papers of the complainant, the agent had back-tracked his earlier version. He said that the age proof of the party was, in fact, received by him on 16.1.2003 itself, but he could not submit the

related papers to the office on time and the party having met with an accident and died on 19.1.2003, fearing that the insurer would institute action against him (the agent) for his lapse, he - the agent had stated otherwise, earlier, on 27.1.2003. Once again, the agent changed his side of the story on 28.11.2003 forwarded to the offices of the Insurance Ombudsman by the Insurer on 11.12.2003 i.e. after the hearing on 27.11.2003, and alleged that his letter dt. 10.3.2003 was obtained by the complainant/ his relatives from him (the agent) under duress and the reality was that the age proof of the party was not handed over to him along with the proposal papers on 16.1.2003 itself. In these circumstances, the agent's statements had lost all credibility.

Similarly, the complainant, vide his letter dt. 14.3.2003, had written to the insurer that the proposal papers along with age-proof in question were handed over by his son to the agent at the complainant's residence on 16.1.2003 and that too, in the presence of the complainant himself. However, during the personal hearing before the Insurance Ombudsman on 27.11.2003, the complainant had stated that only when the premium deposit receipt was found on the dead-body of his son that the complainant came to know of the insurance proposal. Obviously, there was a cover-up of the circumstances both by the Insurance Agent and the Complainant,

Since the insurer had received the proposal only on 27.1.2003 and the party had died on 19.1.2003 itself, although the premium amount was deposited on 16.1.2003 there was no contract of insurance. Merely receiving a deposit or the proposal papers would not put the insurer on risk unless the risk was assessed and accepted by the insurer. In the case on hand, the Insurance Ombudsman found the rejection of the complainant's claim by the insurer fully justifiable on facts as well as on law.

The complaint was dismissed, as there was no valid contract of insurance between the proposer and the insurer on the date of death of the proposer.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/TVM/18/2003-04
Smt. Santhamma
Vs.
Life Insurance Corporation of India

Award Dated 23.02.2004

Smt. Santhamma, "Jiji Bhavan", Mukkudil Post, Nedumangad, Thiruvananthapuram District (Kerala) had come up with the above complaint under Rules No. 12(1)(a) & 12(1)(b) read with Rule 13 of the RPG Rules 1998 against the Thiruvananthapuram Division of LIC (Nedumangad Branch) challenging the decision of the insurer in having rejected the complainant's claim for the sum assured and its ancillary benefits under Policy No.782480318 held by late Shri. B. Soman Nair, the husband of the complainant on the ground that the said insurance policy was totally lapsed on the date of death of the life assured and therefore, the nominee or the complainant was not eligible for any benefit under the policy.

The Life Insurance Policy No.782480318 for Rs. 25,000/- commenced on 24.7.2001 under T.14 for 15 years. The mode of payment of premia was quarterly payable in July, October, January and April every year @ Rs.461/- per quarter. Upto and inclusive of July 2002, the premia, in other words, in all 5 quarterly premia were paid and the quarterly premium due on 24.10.2002 was not paid even within the days of grace allowed for belated payment. The life assured died on 22.12.2002 at the Medical College Hospital, Thiruvananthapuram.

The life assured late Sri. Soman Nair had a sudden health problem on 5.11.2002 consequent to which he fell down and became unconscious. He was shifted to the Medical College Hospital, Thiruvananthapuram, where he underwent treatment for 48 days. He died at MCH, Thiruvananthapuram on 22.12.2002.

The life assured was Rubber tapper and besides his wife who was the nominee under the policy, he had two daughters aged 17 and 14 who were still in the higher secondary stage of education. The complainant was working as a latex remover after the death of her husband who was the sole breadwinner of the family. Other than 20 cents of land, the complainant was left with no property worth mentioning and she was living on about Rs.35/- per day earned by collecting latex at different plantations. The complainant was feeling miserable that the insurer had shown no humanitarian consideration in her case as no one would have thought of any insurance policy and its conditions when the life assured was battling for his life in the Medical College Hospital and the complainant herself was running from pillar to post to manage the show both at the hospital and at home where two young daughters were struggling even for food.

Needless to say, the policy was totally lapsed even without acquiring any paid up value and the Insurance Ombudsman found the decision of the insurer just, legal and proper. The complaint was therefore dismissed.

However; taking into account the pathetic and pitiable condition of the complainant and her school going female children with no means of financial support except the daily wages of the complainant at the rate of only Rs.35/- per working day, the Insurance Ombudsman found it justifiable to invoke Rule No. 18 of the RPG Rules 1998 and awarded an Ex-Gratia of Rs.2,000/- although the complaint as such was otherwise dismissed.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/EKM/19/2003-04
Smt. P. A. Roopavathy
Vs.
Life Insurance Corporation of India

Award Dated 04.03.2004

One Smt. P. A. Roopavathy, W/o. late Shri. K. Krishna Naik, Panambur, Baikampady, Mangalore-10 had come up with the above complaint under Rule 12 (1) (a) and Rule 12 (1) (b) read with Rule 13 of the Redressal of Public Grievances Rule 1998 against the Life Insurance Corporation of India, Ernakulam Division (Palakkad Br:I) challenging the decision of the Insurer in having repudiated the death claim under Pol.No.623240302 held by her husband late Shri. K. Krishna Naik, (who was a JEE II (Engineer) in the S. Railway) on the ground that the insured had deliberately suppressed material facts pertaining to his health conditions for which he was taking treatment from the Railway Health Unit, Mangalore and elsewhere even prior to the date of the proposal for the aforesaid insurance policy.

The Policy No.623240302 was under Plan 124 for a term of 15 years commencing from 23.12.1998. The life assured died on 28.3.2000. The complainant was the nominee under the policy. The claim was repudiated by the insurer vide their letter dated 10.3.2003 i.e., more than two years after the commencement of the policy. The complainant was represented at the hearing by an Advocate and his contentions were that, after 2 years, the insurer could repudiate a

claim only subject to the provisions contained in Section 45 of the Insurance Act, 1938 and in the case on hand the stipulations as contained in Sec.45 of the Insurance Act were not fulfilled and hence the decision of the insurer was illegal and therefore, liable to be set aside. The Advocate (Mr.Grashious Kuriakose) had also cited certain case laws.

The claim form "B" of LIC obtained from Fr. Mullers Hospital, Kankanady, Mangalore showed that the life assured died on 28.3.2000 due to Portal Hypertension, Oesophageal varices, Upper GI Bleeding as primary cause and Cirrhosis of liver as secondary cause.

The complainant, through the Advocate, further contended that the Medical certificates from the Railway Hospital/Health Unit were obtained for the purpose of taking leave and that the life assured was not really sick on any occasion.

However, the Medical certificates issued by the Railway Health Unit, Mangalore on 24.3.97, 4.4.97, 7.5.97, 9.8.97 and on 23.9.98 had clearly indicated the very highly raised B.P. measurements of the life assured and had also prescribed medicines therefor and other allied problems like Trauma, Muscle spasm, giddiness, wound on the left leg etc. His B.P. readings were also recorded on different dates as 160/130, 180/120 and so on. There was also a mention in the Medical Certificates that the life assured was taking treatment for hypertension elsewhere too. It was clear from the Medical certificates that the life assured was a chronic B.P. patient apart from other related problems. If the said certificates were issued only for obtaining "leave" from the Railways, there was no need for the Doctor to record the BP readings/allied diseases and prescribe medicines for the same. The life assured's leave records from 7/96 to 9/99 also confirmed that he had very many miscellaneous health problems including progressively advancing B.P. In fact, in July 99, he was on leave for "Gastritis due to alcoholism". The claim form "B" of LIC obtained from Fr. Mullers Hospital, Mangalore had also cited "Cirrhosis of liver" as secondary cause of death. In the above circumstances, it was clear that the life assured had suppressed very material facts relevant to the assessment of risk by the insurer at the time of effecting the insurance policy. In the proposal for insurance dated 20.12.1998, the life assured had answered all health related questions under Co.No.1 in the Negative or as "No" and declared himself in "Good" health. In fact, in the said proposal for insurance, the life assured had not disclosed a single adverse point in the personal history.

Although the Advocate for the claimant contended that there was no averment on the part of the insurer that withholding of information by the life assured was fraudulent in nature and therefore the repudiation was bad under Section 45 of the Insurance Act 1938, the communications from the insurer had brought out the fraud clearly and the insurer also produced enough evidence to sustain the charge of fraudulent suppression of material facts. The insurer had produced all the relevant hospital records, leave particulars and medical certificates in order to support the repudiation of the claim. The Ombudsman opined that the pleadings as such could not be construed with formalistic rigour and a certain allowance was to be given when the pleadings were drafted by persons who had no legal back ground or lacking legal literacy. The Ombudsman quoted AIR 1976 SC 461, AIR 1977 SC 1158, AIR 1976 SC 744 and AIR 1978 SC 484 to substantiate his findings.

On a close scrutiny, the insurer's action in repudiating the above death claim was found sustainable under Section 45 of the Insurance Act 1938 and the

communications from the insurer inclusive of the various evidences produced clinched the issue of repudiation to its very logical conclusion so as to make it just, legal and proper and therefore, the complaint was DISMISSED.

Since the complaint was instituted and prosecuted by the complainant without any legal or factual foundation, there was no order as to costs and both the parties were directed to bear their respective costs.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/EKM/20/2003-04
Smt. Annakutty Daniel

Vs.

Life Insurance Corporation of India

Award Dated 08.03.2004

Smt. Annakutty Daniel, W/o. Late Fr. T. P. Daniel, who was insured for Rs.40,000/- with LIC of India approached Insurance Ombudsman, Kochi as LIC of India had repudiated the claim for sum assured with ancillary benefits. LIC of India had rejected the claim on the ground that the proposal had understated his age for about 15 years and had thus secured Jeevan Sanchay Policy for 20 years. It should not have been issued to him if the age had been stated correctly.

The complainant argued that the proposer had merely signed in the proposal form and connected forms including statement of age and the same was filled up by the agent of LIC of India. She admitted that the deceased assured's date of birth was given in the proposal was not correct and had produced copy of passport she had sent to LIC and also a certificate from the school where her deceased husband studied.

In the age proof admitted by LIC, there was no details like name of school proposer studied, year of study etc. LIC of India had accepted the incomplete form without any further reference of questioning, as age proof. LIC of India had accepted the claim first and had sent the payment voucher etc. to the party for effecting payment. It is not fair on the part of LIC, observed Ombudsman, to call for further age proof at that stage and reject the date of birth once accepted and thereby repudiated the claim on the basis of understatement of age. Anyhow, the date of birth in the proposal is wrong as admitted by the claimant. Thus the life assured has committed fraud to secure policy for 20 years from LIC of India. The contract is void ab-initio and the claimant has no claim. The complainant is not entitled to get any benefit under the policy. But taking into consideration, that there was serious lapse on the part of LIC, the Ombudsman ordered to LIC to return the amounts of premium with interest at 9% to the complainant.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/EKM/21/2003-04
Smt. Mary James

Vs.

Life Insurance Corporation of India

Award Dated 16.03.2004

Smt. Mary James, mother of late C. J. Shaji, holder of policy no. 773468257 with LIC of India approached the Insurance Ombudsman, Kochi as LIC of India repudiated her claim for sum assured and other benefits on the life of her deceased son. LIC of India had repudiated her claim on the ground that the deceased policyholder had concealed facts relating to his ill health at the time of revival of

the policy within two years from the date of commencement. The facts not revealed were material to the risk and so, the repudiation, according to LIC of India had produced clinical evidence to prove that the life assured had been treated for cancer rectum for about one month. The consideration for revival was made while the life assured was being treated for this disease. The contention of the claimant was that her son was treated only for piles. The Insurance Ombudsman held that as per the records produced by LIC, the life assured was undergoing treatment for cancer rectum which he had not disclosed at the time of revival of the policy. Hence, the repudiation of the claim for the assured sum and incidental benefits by the insurer on the ground that the insured had fraudulently suppressed material facts relating to the health condition of the insured is sustainable on law as well as on facts. The case was thus dismissed.

Kochi Ombudsman Centre
Case No. IO/KCH/LI/21/ICICI/23/2003-04
Smt. Celine Jose

Vs.

ICICI Prudential Life Insurance Co.Ltd.

Award Dated 29.03.2004

Smt. Celine Jose, Fathimapuram, Changanacherry approached the Insurance Ombudsman, Kochi as ICICI Prudential Life Insurance Co. Ltd., Mumbai repudiated her claim for sum assured and other benefits on the life of policy no: 00417579 on the life of her deceased husband. The insurer had repudiated the claim on the ground of suppression of material facts regarding health of the life assured at the time of the proposal. According to the insurer, the life assured was diabetic since three years from the date of proposal. He had also consulted doctors in UAE and in India for diabetes mellitus and liver related diseases. He had been admitted in hospitals also for treatment. He didn't reveal all these facts relating to his health at the time of proposal and so the insurer repudiated the claim as per the provision of section 45 of the Insurance Act. The nominee, wife of the deceased, contended that she was not aware of the disease and her husband had not undergone any treatment for diabetes mellitus according to her knowledge. The insurer had produced hospital records and also the ultrasonographic test results to buttress their claim. The Insurance Ombudsman held that the insurer could prove that the deceased life assured was having ailments connected with diabetes mellitus and liver dysfunction at the time of the proposal. He had knowingly suppressed this material information at the time of his proposal and so the insurer was right in repudiating the claim. Hence, the complaint was dismissed.

Mumbai Ombudsman Centre
Case No. LI/39 2003-2004
Smt. Sneha K. Jambhulkar

Vs.

Life Insurance Corporation of India

Award Dated 6.10.2003

Shri Kishor Yashwant Rao Jambhulkar, took the following policies from Life Insurance Corporation of India, Nagpur Divisional Office. - Policy no. 971043270, 971336050, 971258839. He died on 25.5.2001 due to accident. LIC of India paid full claim with Double Accident Benefit under Policies Nos. 971043270 and 971336050, but partially repudiated the liability under policy No. 971258839 by

their letter dated 28.3.2002 admitting claim only for Rs.2,00,000 + Accident benefit for like amount, as he had mentioned Nil while replying to question regarding his previous insurance particulars while proposing for Policy No. 971258839.

LIC took the view that the above statement was false as he had two more policies with Sum Assured Rs.3,00,000/- (Bima Kiran) and Sum Assured Rs.1,00,000/- (Jeevan Mitra Triple Cover). Thus the total previous insurance was Rs.6,00,000/- plus Rs.5,00,000 under new proposal for Policy No.971258839 and the total insurance cover came to Rs.16,00,000/- whereas the yearly income of Deceased Life Assured was Rs.64,000/- per annum and as per financial underwriting rules insurance upto 15 times (say Rs.10 lakhs) was allowable and he would have been allowed insurance for Rs.2 lacs only under Policy No.971258839 had he disclosed his previous insurance particulars (Insurance rated up twice under Table Term 108-25). It is further seen that when the proposal dated 28.2.2001 for Rs.5 lakhs was submitted, the deceased life assured had only one previous policy No.971043270 for Rs.3,00,000/- which was not mentioned in the said proposal form against LIC's contention of two policies. The proposal for policy No.971336050 was only subsequently submitted on 8.3.2001. Had he mentioned Policy No.971043270, LIC would have undertaken a further risk of Rs.7 lakhs only under the policy in question, resulting in granting of basic S.A. cover of Rs.3.50 lakhs, risk rated up twice. The next proposal dated 8.3.2001 for Policy No.971336050 would not have been accepted at all by LIC as full risk in relation to the income declared would have already been covered. In such circumstances, the maximum amount of death claim payable including Accident Benefit, would have been as under:

Policy No.971043270 Basic	3,00,000.00
Accident Benefit	3,00,000.00
Policy No.971258839 Basic	3,50,000.00
Accident Benefit	3,50,000.00
Bonus	28,000.00
Total	13,28,000.00
Policy No.971336050	nil

However, LIC had already paid Rs. 14,23,300/- as basic and Accident Benefit under the policies as under alongwith bonus.

	Rs. (including Accident Benefit)
Policy No.971043270	4,00,000.00
Policy No.971336050	6,07,300.00
Policy No.971258839	4,16,000.00
Total -	14,23,300.00

(After deduction of unpaid premium net amount was paid).

Thus, what had been paid, was more than the amount payable, had there been no non- disclosure of previous policy.

The claim of Smt. Sneha Jambhulkar for payment of full benefits under policy no.971258839 on the life of Shri Kishor Y. Jambhulkar is not sustainable. There is no order as to interest, cost or compensation. Case disposed of accordingly.

Mumbai Ombudsman Centre

Case No. LI/66 2003-2004
Smt. Kamal Prabhakar Kumbhare
Vs.
Life Insurance Corporation of India

Award Dated 10.10.2003

Shri Prabhakar Chokhaji Kumbhare, took a policy No. 972605279 from Life Insurance Corporation of India, 975 Branch Office under Nagpur Division with effect from 28.11.99 for Rs.50,000 under plan 14 for a term of 10 years through his proposal dated 12.11.1999. He died on 23.12.99 reportedly due to Fever and Heart Attack. LIC of India repudiated the liability under the policy by their letter dated 23rd November, 2000 stating that the deceased life assured had made deliberate mis-statements and withheld material information regarding his health at the time of effecting the assurance. She therefore, approached the Ombudsman by her letter dated nil received on 10.7.2003, seeking intervention in the matter. Her contention was that the Agent or Medical Examiner did not ask the deceased life assured about leave and that leave was taken for some other reason.

The case papers have been perused. The claim Form B completed by Dr. L.N. Bawane, HES Pune, states that the deceased life assured had suffered from viral fever w.e.f. 4.12.99 to 18.12.99 and it was a 'sudden death'. The Medical Certificate dated 10.2.99 from Dr. Pravin B. Gaoture, Pragya Clinic, Chandrapur, states that the deceased had taken treatment for diarrhoea from 1.2.99 to 10.2.99. Form E submitted by the Employer of the deceased life assured, viz. Anand Vidyalaya, Chandrapur, where the deceased was a Headmaster, shows that Shri Prabhakar Chokhaji Kumbhare, had availed sick leave from 1.2.99 to 10.2.99 for Diarrhoea prior to taking the policy. LIC had repudiated the claim within two years of commencement of the policy on the ground of breach of warranty due to non-disclosure of leave taken for diarrhoea. Hence, the disease suppressed had a bearing on the acceptance of the risk and was material, as the death had taken place within 1-1/2 months.

In this case, it is established beyond doubt that material facts were not disclosed by the deceased life assured in the proposal form dated 12.11.99. There is force in the Corporation's contention, that had the life assured disclosed that he had taken treatment for Diarrhoea nine months prior to the proposal, either the proposal would not have been accepted or would have been considered with different criteria on the basis of various Special Medical Reports. The claim of Smt. Kamal Prabhakar Kumbhare, under policy no.972605279 on the life of Shri Prabhakar Chokhaji Kumbhare, is not sustainable. Case disposed off accordingly.

Mumbai Ombudsman Centre
Case No. LI/67/2003-2004
Smt. Mayabai Prabhakar Raut
Vs.
Life Insurance Corporation of India

Award Dated 16.10.2003

Shri Prabhakar Namdeorao Raut took a policy no. 821594869 for Rs.50,000/- under Table 14 for a term of 5 years through proposal dated 30.1.2002 with effect from 11.2.2002 from Branch 977, of Amravati Division of Life Insurance Corporation of India. Shri Raut died on 17.2.2002 due to Cardiac failure due to acute Myocardial Infarction. When a claim was preferred by Smt. Mayabai Prabhakar Raut, wife of the deceased life assured, it was rejected by Amravati Division of LIC by their letter

dated 5.3.2003 as it was observed by LIC that Shri Prabhakar Namdeorao Raut had suffered from Unstable Angina one year and two months before he proposed for insurance, but he did not disclose this fact in the proposal form.

A perusal of the case papers reveals that as per medical attendant's certificate completed by Dr. V. R. Sharma, Medical Attendant, L. D. General Hospital, Murtizapur, he was consulted by the life assured on 17.2.2002 just before death and the primary cause of death was "Cardiac failure" and the secondary cause was "due to acute myocardial infarction". Claim Form B 1, completed by the same Doctor, states that the life assured was admitted to L. D. General Hospital, Murtizapur on 17.2.2002 with chest pain and perspiration at the time of admission and no other history of sickness is recorded. From the discharge card of District Hospital, Akola, it is revealed that the deceased life assured was admitted to the hospital on 13.11.2000 and discharged on 15.11.2000 and diagnosis was "Old Ant. Wall MI with Unstable Angina". From the Certificate of Employer of the deceased life assured, it is found that he was on leave from 9.10.2000 to 14.10.2000 for 6 days on medical ground and again from 14.11.2000 to 17.2.2001 for 96 days on commuted leave.

In this case, it is established through documentary evidence that Shri Prabhakar Namdeorao Raut, was admitted to District Hospital, Akola, from 13.11.2000 to 15.11.2000 for Old Ant. Wall Myocardial infarction c unstable Angina, which is also corroborated by the certificate of the employer that he had taken sick leave from 14.11.2000 to 17.2.2001. The contention of the complainant that even if the deceased life assured was hospitalised for Unstable Angina prior to proposal, LIC cannot repudiate the claim as medical examination was done by LIC at the time of proposal is erroneous and not tenable. LIC's decision to call the policy in question for breach of warranty cannot therefore, be faulted. The claim of Smt. Mayabai Prabhakar Raut, for payment of policy moneys under policy no.821594869 on the life of Shri Prabhakar Namdeorao Raut, is not sustainable. Case disposed of accordingly.

Mumbai Ombudsman Centre

Case No. LI/98/2003-2004

Smt. Savitha Girish Damle

Vs.

Life Insurance Corporation of India

Award Dated 28.01.2003

Dr. Sanjay Girish Damle, took a policy No.954900594 from Life Insurance Corporation of India, Branch Office-956 of Pune Division with effect from 25.10.2001 for Rs.1,00,000/- under plan 14 for a term of 20 years through his proposal dated 18.10.2001. He died on 24.11.2002 due to suicide. LIC of India repudiated the liability under the policy by their letter dated 19.5.2003, stating that the Insured had committed suicide before expiry of one year from the date of policy and commencement of risk and hence, the policy had become void in accordance with provisions of Policy Condition No.6 and they were not liable for any payment under the policy. Smt. Damle, contended that since the Corporation had accepted the premium and date of risk was shown on the receipt as 25.10.2001, the claim should stand and she was not aware how the Corporation delayed in issuing the Policy till 17.4.2002.

The representative of LIC deposed that Suicide was within one year from the date of issue of FPR on 30th March, 2002. In terms of standing instructions the date of FPR is to be reckoned for purpose of Suicide Clause and, therefore, the claim was not payable.

From the records, it is observed that although the Insured had submitted the proposal deposit of Rs.5201/- on 18.10.2001, the First Premium Receipt was issued with terms and condition of acceptance by LIC only on 30.3.2002 and Policy No.954900594 was issued on 17.4.2002, although date of commencement of risk was 25.10.2001. Although suicide was more than a year after the date of commencement of risk, LIC has contended that the date of First Premium Receipt is to be reckoned for purpose of Suicide Clause and, therefore, the claim was not payable. As per the said clause no moneys are payable if the policyholder committed suicide within one year from the date of the policy.

However, LIC had taken a liberal view as per their Claims Manual. Thus as per the liberal interpretation of the Suicide Clause adopted by LIC the period of one year is to be reckoned from the date of acceptance of risk and not from the date of the policy (which may be delayed). In the present case, even as per the liberal interpretation adopted by LIC, the underwriting decision having been taken on 30.3.2002, the risk under the policy was accepted only on 30.3.2002 and the provisions of the Suicide Clause are applicable from this date. As the life assured died on 24.11.2002, it was within 1 year from the date of acceptance of risk under the policy and therefore the plea of the complainant is not sustainable.

Insurance Ombudsman vide his Award dated 28.10.2003 has directed that the claim of Smt. Savita Girish Damle, for payment of policy moneys under policy no. 954900594 on the life of Dr. Sanjay Girish Damle, is not sustainable. Case disposed of accordingly.

Mumbai Ombudsman Centre
Case No. LI/89/2003-2004
Smt. Sunita Shashikant Shankhpal
Vs.
Life Insurance Corporation of India

Award Dated 29.10.2003

Shri Shashikant Bhaskar Shankhpal, took policy Policy No. 968123097 and 969646815 from Life Insurance Corporation of India.

The policy No. 968123097 lapsed from 28.6.2000 due to non-payment of 13 monthly premiums due from November 1990 to October 1991 and September 1993. The policy was revived on 30.8.2001. He died on 22.6.2002 suddenly. When the claim forms were submitted by the claimant, Smt. Sunita Shankhpal, LIC of India, repudiated the claim under Policy No. 968123097 on the ground that Shankhpal, had made deliberate mis-statement and withheld material information from the Corporation and the revival of the policy was declared void. As the policy had acquired paid up value, the net amount of Rs.40,000/- after adjusting loan was paid to the nominee Smt. Sindhubai, mother of the insured. LIC held the view that the deceased life assured had suffered from diabetes mellitus and took treatment in the year 2000-2001 but did not disclose this in the personal statement regarding health. Her claim under Policy No.969646815 was also repudiated by Nasik Divisional Office as they held indisputable proof to show that about 7 - 8 months before he proposed for the above policy, the deceased was suffering from Diabetes for which he had consulted a medical man.

Not satisfied with the above decision, Smt. Sunita Shankhpal, approached the Ombudsman, regarding repudiation of her claims under Policy No.979646815 and 968123097 and stating that her husband was never ill and he was regularly attending to his duties and he was not aware that he had to disclose treatment for minor illness.

From the records produced by LIC, it is clearly established that the deceased life assured had not been having sound health when he proposed for insurance under policy No.969646815 on 30.3.2001 and at the time of revival of policy No.968123097 on 30.8.2001 and he had been suffering from Diabetes Mellitus as revealed from Claim No.5152 completed by Dr. B.V. Kotulkar, and various pathological reports. There is force in the contention of LIC that had he disclosed the history of Diabetes Mellitus, the proposal for Policy No.969646815 and revival of Policy No.968123097 would have been considered with some restrictive clauses/with extra premium or rejected.

Insurance Ombudsman vide Award dated 29th October, 2003 has directed that the claim of Smt. Sunita Shashikant Shankhpal, for payment of policy moneys under policy nos.969646815 and 968123097 on the life of Late Shri Shashikant Bhaskar Shankhpal, is not sustainable.

Mumbai Ombudsman Centre

Case No. LI/87/2003-2004

Shri. S. Thavasimuthu Nadar

Vs.

Life Insurance Corporation of India

Award Dated 30.01.2003

Shri Murugesan S. Nadar, took a policy No.890530335 from Life Insurance Corporation of India, Branch Office 91 V, Mumbai Division III, with effect from 1.6.97 for Rs.25,000/- under plan 91 for a term of 20 years through his proposal dated 25.6.1997. He died on 13.10.99 due to Cirrhosis of Liver with Portal Hypertension and Ulcer leg. LIC of India repudiated the liability under the policy by their letter dated 18.3.2002, stating that he had made deliberate misstatements and withheld material information regarding his health at the time of effecting the assurance.

The records of the case have been perused. As per claim Form 'A', the duration of illness was stated to be 6 months and nature of illness as stomach ache. The treating doctor's name was given as Dr. C. Ramaswamy. Even though the hospital note states that he was a known case, duration is not mentioned in the hospital note and the complainant has stated the history as 6 months. Even as per the earlier admission, the history goes back to July '99 only and LIC had not brought on record any other material to establish that the disease was existing prior to the date of proposal in 1997. Although Dr. Ramaswamy, had stated in the Claim Form B that the symptoms were observed 5 years back, this is not supported by hospital records produced by LIC. No explanation or clarification or treatment particulars were obtained from Dr. Ramaswamy and produced by LIC regarding the doctor's statement on symptoms observed 5 years back.

Therefore, the conclusion of LIC that the deceased was suffering from Cirrhosis of liver with Portal hypertension since 5 years prior to hospitalisation and death on 13.10.1999 i.e. prior to the date of proposal and that it was not disclosed in the proposal form, does not stand established with any conclusive evidence. The date of FPR is 30.6.97 and the duration of the policy from FPR was 2 years, 3 months, 13 days. This is, therefore, a case which attracts **Section 45** of Insurance Act, 1938: **Policy not to be called in question on ground of misstatement after two years-** In fact the Hospital note subsequently obtained from the hospital indicates that LIC has not discharged the burden of proof adequately. The complainant is, therefore, entitled to the relief asked for. The petition of Shri Thavasimuthu Nadar, succeeds. Life Insurance Corporation of India is directed to entertain the claim

under the policy, and pay the admissible amount to the title holder on valid discharge.

Mumbai Ombudsman Centre
Case No. LI/47/2003-2004
Smt. Vijayshree Manohar Morajkar
Vs.
Life Insurance Corporation of India

Award Dated 31.10.2003

Shri Kailas Manohar Morajkar, took policy No. 890808511 901792414, 901791123 and 901796724 from Life Insurance Corporation of India. Shri Morajkar died on 2.12.2001 due to Terminal Cardio respiratory arrest due to Type II Respiratory failure with community Acquired Pneumonia with post pulmonary tuberculosis lung fibrosis at K.E.M. Hospital, Mumbai. When a claim was preferred by Smt. Vijayshree M. Morajkar, mother of the deceased life assured, Life Insurance Corporation of India, Mumbai D.O. III, repudiated her claim under Policy No.890808511 by their letter dated 30.3.2002 on the ground that he withheld material information regarding his health at the time of effecting the assurance as they held indisputable proof to show that the deceased had past history of Koch's in 1992-93 for which he had taken treatment for 1 year. Her Claims under Policy Nos. 901792414, 901796724 and 901791123 were also repudiated by LIC of India, Mumbai D.O. I by letter dated 8.4.2002 as they held indisputable proof to show that the deceased had suffered from Pulmonary Tuberculosis three years before his death.

The case papers have been perused. In Claim Form B, completed by Dr. P. S. Agal, A.M.O., KEM Hospital, Parel, dated 29.1.2002, he has stated the Primary Cause of Death as "Terminal Cardio respiratory arrest" and the Secondary Cause as "Due to Type II Respiratory failure in a case of community acquired. Pneumonia c underlying post pulmonary Tuberculosis lung fibrosis". He has also mentioned that Pulmonary Kochs 3 years preceded co-existed as per notes on indoor papers with that which immediately caused his death. The notings in the Indoor Case papers of KEM Hospital on 30.11.2001 also mention "30/M Past H/O Koch's 3 years back" and in page 6 of same case papers, it is mentioned as "Past H/O Kochs 1992-1993 taken treatment for 1 year". The Certificate of treatment completed by Dr. P. H. Parikh, on 28.3.2002 states that the deceased had Pulmonary TB mostly in 1998 and was prescribed medicines accordingly and he had been suffering from the illness Pulmonary TB since 3-4 years. He has also mentioned the deceased had consulted him in the past for Pulmonary TB and he was irregular on treatment and he was visiting him off and on for treatment. Form No.E, completed by Director, Nutraplus Products (I) Ltd., where the deceased had been employed, states that the deceased had availed one month leave in 1999 on health ground. Thus the history of illness goes beyond the date of proposal of the above policies. In the light of this, the stand of LIC that Shri Kailas Morajkar, had deliberately and fraudulently withheld material information cannot be faulted. The claim of Smt. Vijayshree M. Morajkar, for payment of policy moneys under policy nos. 89080851, 901792414, 901791123 and 901796724, on the life of Shri Kailas M. Morajkar, is not sustainable.

Mumbai Ombudsman Centre

Case No. LI/72/2003-2004

Smt. Pratibha Bhute

Vs.

Life Insurance Corporation of India

Award Dated 12.11.2003

Shri Haridas Kaoji Bhute, was insured under Life Insurance Policy No.970798796 issued by Bhandara Branch Office of Nagpur Division of Life Insurance Corporation of India through proposal dated 31.3.97 for a Sum Assured of Rs.50,000/- under Plan and Term 75-20. The policy commenced on 28.3.1997 but lapsed with effect from 12/1999 due to non payment of premium. The Policy was revived on 8.1.2001, for which purpose Shri Bhute, gave a personal statement (self declaration) regarding health dated 30.12.2000.

Shri Bhute, unfortunately died on 15.5.2002. When the claim for the policy moneys was preferred by the nominee, Smt. Pratibha Bhute, Life Insurance Corporation of India therefore, repudiated the claim by letter dated 10.10.2002 on the ground of non disclosure of material facts in the Personal Statement Regarding Health stating that they held indisputable evidence to show that he had suffered from Hypertension, Blood Sugar and Ischemia for which he took medical treatment in a hospital since 5 years and holding the view that Shri Bhute, made deliberate mis-statements and withheld material information from them regarding his health at the time of getting the policy revived. Aggrieved by the decision, Smt. Bhute, therefore, approached the Insurance Ombudsman vide letter dated 25.5.2003 seeking interference on the ground that Shri Bhute, was healthy at the time of taking the policy on 28.3.97. She also stated that the information given by Dr. Gaidhane, Kondhakosara, was wrong, and he was doing more leadership than Medical Practice and presently he was a member of Panni Panchayat Samiti and they were not in good terms and he gave wrong information, as they had not assisted him in election.

From the records submitted by Life Insurance Corporation of India, it is seen that Dr. Ashok T. Gaidhane, DHMS, in the Special Query Form dated 5.9.2002 has stated that Shri Bhute, had consulted him in August 1997 for Blood Pressure and Hypertension and had been suffering since five years and history reported was chest pain and uneasiness. Pursuant to the hearing, Manager Claims, Nagpur D.O. vide letter dated 10.10.2003, informed the Office of the Insurance Ombudsman that the Branch Manager, Bhandara Branch, Nagpur D.O. had visited the concerned Doctor, Gaidhane and requested him to give a stamped affidavit on what basis the certificate had been issued, but the Doctor had expressed his unwillingness to do the same. However, in the light of the records produced by Life Insurance Corporation of India the contention of the complainant, that the deceased life assured was not having any disease since 5 years prior to revival of the policy is not tenable. Although, he had taken treatment before the revival of the policy, he had given the declaration of good health for revival of policy on 30.12.2000, stating to the contrary which amounted to non-disclosure of material facts. He had taken treatment for ailments having nexus with the cause of death. 'The complainant has, however, contended that the doctor had given a wrong certificate due to personal animosity. This involves complicated questions of fact, which cannot be adjudicated by this Forum, as the proceedings before this Forum are summary in nature. If so advised, the complainant may approach an appropriate Civil Court for relief.

Insurance Ombudsman has directed that the claim of Smt. Pratibha Bhute, for payment of policy monies under Policy No. 970798796 on

the life of Shri Haridas Kaoji Bhute, is not sustainable. If so advised, she may approach an appropriate Civil Court for relief. Case disposed off accordingly.

Mumbai Ombudsman Centre
Case No. LI/204/2002-2003
Shri Baburao C. Chaudhary
Vs.
Life Insurance Corporation of India

Award Dated 13.11.2003

Shri Bhushan Bhaburao Chaudhary was insured under Life Insurance Policy No 967572828 with Accident Benefit, issued by Branch 96A of Nashik Division of Life Insurance Corporation of India through proposal dated 25.5.2001 for a Sum Assured of Rs.50,000/- under Plan and Term 133-25. Shri Bhushan Bhaburao Chaudhary unfortunately died on 28.10.2001 due to drowning in a well. When the claim for the policy money was preferred by his father, the nominee, Shri Baburao Chaudhary, Life Insurance Corporation of India, after investigation repudiated the claim stating that as the deceased committed suicide within one year the policy became null and void. Aggrieved by the decision of the Divisional Office Shri Baburao C. Chaudhary approached the Ombudsman

Although, Shri Baburao was reminded to produce the relevant Magistrate's verdict, he finally replied vide letter dated 20.10.2003 that he could not obtain the required papers from the Police Inspector and Magistrate as they were not ready to alter the papers as 2 years had passed and hence pleaded to give justice on humanitarian ground or would be compelled to go on fast unto death or commit suicide before this Office.

The contention of LIC of India was that suicide clause was operative in this case. The police papers such as Khabar and Inquest Panchnama revealed that Shri Bhushan Bhaburao Chaudhary had jumped into the well and died due to drowning. From the records submitted, it is evident that the deceased Life Assured had committed suicide within one year of the date of policy and hence we have no valid reason to interfere with the decision taken by Life Insurance Corporation of India to repudiate the claim. The plea for payment on humanitarian ground does not merit consideration. The petition of Shri Baburao Chaudhary, therefore, fails., He may however, approach this Forum again on obtaining the Final Police Investigation Report and Magistrate's Certificate classifying the death of Shri Bhushan Chaudhary.