

1 Before the District Consumer Dispute Redressal Commission [Central District] -
VIII, 5th Floor Maharana Pratap ISBT Building, Kashmere Gate, Delhi
Complaint Case No. 259 of 2017

1. Smt. Santosh Devi
(Wife of Lt. Sh. Joginder Kumar) ...Complainant 1
2. Ms. K.M. Tanushree
(Daughter of Lt. Sh. Joginder Kumar) ...Complainant 2

Both At House No. 1961, Pana Mamur Pur,
Arya Samaj Road (Main Rajiv Colony),
Narela, Delhi-110040

Versus

1. Life Insurance Corporation of India
Branch Unit No. 116, Laxmi Insurance Building
(1st Floor), Asaf Ali Road, New Delhi-110002Opposite Party No.1
2. Municipal Corporation of Delhi
Karol Bagh Zone, Near Khalsa College,
Anand Parvat, Delhi-11005

Head Office NDMC Head Office,
Palika Kendra, Parliament Street,
New Delhi-110001Opposite Party No.2

Date of filing: 03.11.2017
Date of Order: 14.10.2024

Coram:
Shri Inder Jeet Singh, President
Ms Rashmi Bansal, Member -Female

FINAL ORDER

Ms Rashmi Bansal, Member -Female

By the present the order the Commission is disposing of complaint of the complainants, who are wife and daughter of the late life assured, alleging deficiency in services on the part of OP1/ LIC, the insurer and OP2/ the employer

in rejecting their insurance claims that has caused them not only the financial loss but also mental agony, harassment and inconvenience.

Case of Complainant -

1. It is the case of the complainants that late Sh. Joginder Kumar, (life assured) was employed with OP2 as *Safai Karamchari* in the Karol Bagh Zone, appointed vide order dated 30.06.2005 in pursuance of proposal dated on 07.06.2005. During the course of his employment, he has opted for three ‘SSS’ (Salary -Saving-Schemes), type policies offered by OP1 to the employees of OP2 with policies as per details herein below:-

Particulars	Policy no.1	Policy no.2	Policy no.3
Policy no.	262346924	262348185	262354498
Accident benefit/basic sum assured	Rs. 1,60,000/-	Rs. 3,20,000/-	Rs. 2,00,000/-
Date of commencement	18.06.2014	30.12.2014	31.03.2016
Date of maturity	18.06.2029	24.12.2029	28.03.2036
Nominee (relation with insured)	Smt. Santosh Devi, wife	Ms. K. M. Tanushree, daughter	Smt. Santosh Devi, wife

- 1.1. Complainants submit that for opting above stated policies, the insured employee was required only to give his consent and to fill a form. The installment premium was to be deducted directly from the salary of the employee by employer and to be remitted to OP1. The same was accordingly deducted by OP2 from the salary of life assured, late Sh. Joginder Kumar, which also included premium for ‘Accidental Death and Disability Benefit Rider Installment Premium’. Complainants further submit that the maturity amount was to be paid at the time of

completion period of the policies or at the death of the life assured, whichever happen earlier.

- 1.2. It is submitted that for deposit of the premium amount per month, OP1 had to raise the demand for the premium amount every month upon OP2 and thereafter, upon receiving the demand from OP1, OP2 was required to deposit the said premium amount with OP1. It is also submitted that during the entire process of raising the demand of installment premium amount and consequent deposit of the same, there was no interference by the insured employee. Also, the demand of the installment amount was to be communicated to the employer, OP2 and not to the insured employee.
- 1.3. Complainants further submit that unfortunately the insured employee, Sh. Joginder Kumar died on 13.10.2016 and complainants filed the claim before OP1 for the aforementioned insured amount, in response of which OP1 honored the claim against policy no. 262354498 amounting to Rs. 2 lakh but rejected the claim as regard to the policy no. 262346924 (Rs. 1,60,000/-) and policy no. 262348185 (Rs. 3,20,000/-), by its letter dated 29.03.2017, after asking for some documents which were duly supplied on 06.02.2017 against receipt to OP1, on the ground that few installments for the said insurance policies were missing as detailed herein below:

Policy no.	Gap months	Premium (Rs.)
262348185 (Rs. 3,20,000/-)	02/2015	1911/-
	03/2015	1911/-
	04/2015	1911/-
	05/2015	1911/-
	Total (4)=Rs. 7644/-	
262346924 (Rs. 1,60,000/-)	11/2014	982/-
	12/2014	982/-

	01/2015	982/-
	Total (3) = Rs. 2946/-	

1.4. Complainants submit that rejection of their claims by OP1 is illegal and arbitrary as the alleged gap in the premium was not attributable to the complainants nor to late Sh. Joginder Kumar. It is because of fault of OP1 itself, who failed to raise the demand for the aforesaid gap months upon the OP2, that resulted in the said gape in the policies. Complainants alleges that because of illegal act and unfair trade practice on behalf of OP1, they have suffered immense mental agony and harassment without any negligence on their part and the denial of the rightful claim of the complainants amounts to deficiency in services on behalf of OP1. Complainants pray for insurance amount of Rs. 1,60,000/- and Rs. 3,20,000/- with respect to above stated policies along with interest @ 18% p.a. w.e.f. 13.10.2016 (death of the life assured) in favor of complainant no.1 & 2 respectively and same amount as compensation towards the mental harassment and agony caused to them respectively.

Case of OP1

2. OP1 has filed its reply, stating that complaint is liable to be dismissed as the same is without any cause of action against OP1 and complainants have not approached this Commission with clean hands and had suppressed the material facts from this Hon'ble Commission. OP1 admits that the above stated policies issued in the name of the employee of OP2, Lt. Sh. Joginder Singh, under SSS but states that the said policies except policy no. 262354498 were already lapsed during the lifetime of the life assured due to non-payment of monthly premium for the period from February 2015 to May 2015 in respect of policy number 262348185, and monthly premium for the period from November 2014 to January 2015, in respect of policy number 262346924. OP1 further submits that it is the duty of the insured or his employer to

deposit the monthly premium regularly to OP1 and due to default in payment of the premium, the said policies were lapsed and therefore OP1 had no liability to pay the maturity value of the lapsed policies as claimed and there is no deficiency of services on its part. It is also submitted the surrender value of the lapsed policies and the maturity amount in respect of third policy no. 262354498, which was alive at the time of death of the insured, was paid to the complainants.

2.1. OP1 also submits that the schedule for the premium was given at the time of obtaining the policy by the insured as per their choice, and after that, it was the duty of the insured/employer to deduct from the salary and deposit the premium as per schedule chosen by them at the time of taking the policy. It is submitted that in present case, the insured or his employer has chosen monthly premium, which were not paid regularly and as such the said two policies were lapsed during the life time of the insured due to non- payment of premium as state herein above. It is further submitted that at the time of issue of policies, the DLA has duly undertaken to bear all the consequences arising due to non-payment of premium by way of lapse, or any other reason. Moreover, OP2 had also issued a certificate dated 15.03.2017 certifying that the premium in respect of the two policies in dispute was not deducted from the salary of the DLA for the defaulted period. Even otherwise, had the premium been deducted by OP2 from the salary of the insured, it is the duty/liability of OP2 to deposit the same with OP1 regularly and in default on the part of OP2, they are not liable to make good the loss suffered by the family of insured.

2.2. It is further submitted that it had raised demand of all the gaps in premium in respect of two policies through speed post and subsequently through ordinary post also, however, despite receiving the same, neither DLA nor his employer deposited the premium for the defaulted period, because of which the policies were not kept in full force at the time of death of DLA and were lapsed, therefore, as such

complaints' claim was rightly rejected. This is further submission of the OP1 that the DLA died before three years from the date of commencement of risk under the said to policies. It is also submitted that complainants failed to clarify the fact whether any premium amount was deducted from the salary of the insured for the defaulted period by his employer or not, which clearly proves the falsification of their claim.

3. Despite notice, OP2 chose not to appear and as such has been proceeded ex-parte vide order dated 15.01.2018.

Replication of complainant

4. Complainants have filed their replication negating the contentions of OP1 and reiterated their plea taken in complaint, submitting in addition that OP1 raised demands for the default period and thereafter accepted monthly premium after the period of February 2015 to May 2015 in respect of policy number 262348185, and the period of November 2014 to January 2015 in respect of policy number 262346924, then after raising demands for the monthly premium for the lapsed period, the OP one cannot be permitted to take advantage of his own wrong.

Evidence

5. Both sides filed their respective evidences and exhibited the documents filed with their respective pleadings in support of their cases.
 - 5.1. In support of their case complainants have filed copies of above stated insurance policies, copy of death certificate of late Sh. Joginder Kumar, copy of receipt dated 06.02.2017, copy of office report dated 13.01.2017, repudiation letter dated 29.03.2017 as a proof of evidence of their case;
 - 5.2. OP1 has filed has filed a certificate dated 15.03.2017 issued by OP2 certifying that the premium for the defaulted period was not deducted from the salary of the DLA, photo copy of dispatch register, module, register of speed, post and demand invoice for the laps period of policies as evidence of it's case.

5.3. Both the parties have also filed their respective written arguments. Complainant has relied upon Hon'ble Supreme Court of India judgment in the case of Chairman, Life Insurance Corporation and others vs. Rajiv Kumar Bhasker, reported in (2005) 6 SCC 188, which had reference of Delhi Electric Supply Undertaking (DESU) vs. Basanti Devi and Anr. AIR 2000 SC 43 in extenso in order to determine issue in Rajiv Kumar Bhasker case (supra).

Final hearing

6. The Commission has perused the evidence of proof as filed on record filed by both sides and heard the oral arguments of parties.
- 6.1. Appointment of life assured with OP2, the policies in questions issued by OP1 under the Salary Saving Scheme of the OP1, death of the life assured on 13.10.2016, are not in dispute. As per the Salary Saving Scheme of OP1, deduction of the premium for every month was to be made from the monthly salary of the insured by OP2, where he was serving and to be remitted to OP1, as per the provisions of the Salary Saving Scheme formulated by OP1.
- 6.2. It is a matter of record that the premium for the policy number 262354498 was paid uninterruptedly and the insurance amount of Rs. 2,00,000/- was released to complainant no.1. The premium for the two policies were not paid, from February 2015 to May 2015 for the policy number 262348185 (of Rs. 3,20,000/-) and from November 2014 to January 2015, for the other policy bearing number 262346924 (of Rs. 1,60,000/-).
- 6.3. The claim filed by the complainants was rejected by OP1 vide letter dated 29.03.2017, citing the reason that due to the non-payment of the premium, the policies were lapsed during the lifetime of the insured. The main question for consideration is "whether the claim was still payable to the complainant, even when the deduction of the premium was not made by OP2 from the salary of the

deceased life assured (DLA) and hence, the same could not be deposited with OP1, as a result of which, the said policies were lapsed?".

6.4. The provisions of the Salary Saving Scheme formulated by OP1 came under consideration before Hon'ble Supreme Court of India in the case of Delhi Electric Supply Undertaking (DESU) vs. Basanti Devi, AIR 2000 SC 43, wherein it was observed that it is the sole responsibility of the employer to collect the premium amount from all the employees and to remit the same to the LIC by means of one cheque. A reconciliation statement is also to be sent in the form as collected by LIC. No individual premium notice is to be sent by the LIC to any employee and no receipt is to be given to the employees for the premium amounts so collected. It is the employer, who is to inform the LIC of all the changes in the staff as soon as they occur and employee is ignorant of the communications between the LIC and the employer and he is made aware of only about the deduction of the premium made from his salary every month. It was also noticed that the premium deducted by the employer from the salaries of the employees and remitted to the LIC is without any charge. When an employee leaves the employment of the employer or his premium is ceased to be collected and/or remitted to the LIC, such fact is to be intimated by the employer to the LIC. When the SSS is withdrawn, it is the LIC which intimates the fact to the employee whose life has been insured. Then premium is payable with an extra charge. Considering the conditions as to how the premium is to be deducted from the salaries of the employees and remitted to the LIC by the employer by one cheque for all the employees with the reconciliation statement, it has been observed that it is not possible for any employee to know if the amount of premium deducted from his salary, has been remitted or not. An employee is not given any separate premium notice nor is given any receipt for the premium receipt. It is interpreted that since the matter of payment of premium after deducting the amount from the salary of the employee is between the employer and

the LIC, it is not required for the employee to intimate to the LIC about non-remittance of the premium. Under the Salary Saving Scheme, the employer cannot be held to be an insurance agent within the meaning of the Insurance Act and Regulations, but an employer can be considered to be an agent as defined under section 182 of the Indian Contract Act, 1972. From the mode of collection of premiums under the Salary Saving Scheme, it can be held that the employer has been assigned the role of collecting premium and remitting the same to the LIC and as far as the employee who has taken a policy under the Salary Saving Scheme is concerned, the employer will be an agent of the LIC. The Hon'ble Supreme Court has observed that for the purpose of SSS, the general principle of law of agency as contained in the Contract Act is to be applied.

6.5. The same provisions of the Salary Savings Scheme of the LIC came to be considered again in *Chairman, Life Insurance Corporation and others vs. Rajiv Kumar Bhasker*, reported in (2005) 6 SCC 188 and the decision in *Delhi Electric Supply Undertaking vs. Basanti Devi* (supra) was followed, wherein the Hon'ble Supreme Court has taken note of the fact that the Salary Savings Scheme has provided for a tripartite agreement and the employer in terms of such tripartite agreement accepts the responsibility of deducting the premium from the salaries of its employees and to send the same to the Corporation by one cheque. The employee concerned does not usually have any knowledge about the correspondences passed between the Corporation and the employer. It has been held that in respect of the Salary Savings Scheme of the LIC even in case of non-payment of premium for any reason whatsoever, in view of the object the Scheme seeks to achieve, it is the duty of the insurer to inform the employee about the consequences of non-receipt of such premium from the employer. In the event of failure or negligence on the part of the Corporation to inform the employee as

regards non-receipt of premium from the employer, the employee cannot be made to suffer the consequences emanating from the default on the part of the employer. It has been mentioned in the Manual for Policy Servicing Department no. 14 - Salary Savings Scheme issued by the LIC on 31.12.1990, in para 13.4 that the fault in payment of the premium should be intimated to the party. It has further been mentioned in para 16 and 17 of that Manual as follows: -

"16. DEFAULT AND FINAL LAPSE NOTICE:

While posting the Group Ledger, any default in payment of premia should be communicated to the employer on a special form No. 5227. If the premiums remain unpaid for 6 months, a lapse intimation on the prescribed form No. 5228 should be sent to the employee. A lapse Register is also to be maintained for preparing statistics in respect of lapses.

17. STRAY DEFAULT OF PREMIUMS:

In case of stray default for any reason, the defaulted premiums can be allowed to remain pending for collection later on. Further, premiums as and when received should be credited towards the months for which deduction has been made instead of towards an earlier default or instead of holding all collections in deposit till the full arrears are received."

It was further stated that although an undertaking was given by the insured that he shall be responsible for payment of premium, when the premium was not deducted by the employer, but a plain perusal of the salient features of the Salary Savings Scheme indicates that the employer as well as the LIC could not escape their responsibility of informing the insured, in case of default in the payment of premium.

6.6. Both the above stated judgments have clarified the mechanism in SSS of the OP1 that it was the primary duty of OP2 to deduct the premium amount from the salary

of DLA and remit the amount to OP1 and simultaneously, in case of non- payment of the premium instalment, it was the duty of OP1 to intimate the insured about the non-payment of the premium. No individual premium notice was required to be sent by the OP1 to any employee and no receipt is to be given to him for the premium received. Similarly, it is the OP2 to inform OP1 of all the changes in the staff as soon as they occur, so also the fact when any employee leaves its service. An employee is not aware of the communications between OP1 and OP2, he is only having the information that there is deduction of premium from his salary every month.

6.7. From the affidavit of the OP1 itself, it is admitted that there was failure on the part of the OP2 to deduct the premium amounts from the salary of the DLA despite demand notices and to remit the same to the OP1 during the period from February 2015 to May 2015, with respect to the policy number 262348185 (of Rs. 3,20,000) and from November 2014 to January 2015, with respect to policy number 262346924 (of Rs. 1,60,000). OP1 has filed photo copy of dispatch register, module, register of speed, post and demand invoice for the lapsed period of policies, which shows that the documents sent through speed post were addressed to Zonal Assistant Commissioner, Karol Bagh, New Delhi. None of the documents shows that DLA was conveyed about the lapse of the policy or that he was having knowledge of the non – payment of the premium amount. It was the responsibility of the OP1 to intimate the life assured the resultant consequence for such non-deposit, but neither OP1 nor OP2 had provided appropriate information to the him at any point of time during the said period of default that no premium amounts in respect of the said two policies were made and that it is due for payment. He was never asked to deposit the premiums on his own during the said period. Had the fact of non-deposit of premiums of above stated two policies been communicated to him, it could have been possible for the DLA to take requisite steps to ensure

that policies did not lapse for non-payment of the premium as the third policy no. 262354498 was commenced at later point of time and the premium was paid as per terms of the policy by OP2 and continued uninterruptedly. Even the date of lapse of policies was also not declared by OP1. OP1 simply stated that these two policies in question were already lapsed during the lifetime of the insured due to non-payment of monthly premium for the stated period.

6.8. Further, OP1's contention that surrender value of the policy was paid to complainants but no such details/documents of payment is proved by OP1. There is no documents on record to this effect, in the absence of which the contention of OP1 is rejected. OP1 also contended that DLA died before three years from the date of commencement of risk under the said two policies but not conveyed how the said term and condition of the policy has effect on the claim of the complainants. Similarly, it is also submitted by OP1 that at the time of issue of policies, the DLA has duly undertaken to bear all the consequences arising due to non-payment of premium by way of lapse, or any other reason, but OP1 failed to substantiate its contention by any supporting evidence, therefore, this contention of OP1 is also rejected. OP1 also failed to show how the complainants approached this Commission without clean hands and what material facts are suppressed from this Commission.

6.9. In the light of the decision made in *Delhi Electric Supply Undertaking vs. Basanti Devi* (supra) and *Chairman, Life Insurance Corporation vs. Rajiv Kumar Bhasker* (supra) and after considering facts and circumstances of the present case, this Commission is of the view that the contract was between OP1 and OP2; the life assured was completely unaware from their working with respect to SSS. It is the entire responsibility of OP1 to raise the demand and OP2 to pay for the same, therefore, it is not permissible on the part of the OP1 and OP2 to deny the benefits of the aforesaid two policies to the complainants, who are the nominees in the said

two insurance policies and rejection of their claims by OP1 amounts to deficiency in services on its part as well as non - remitting the premium to OP1 by OP2 makes OP2 equally liable. Also, it is established that OP1 and OP2 failed in their duty to inform DLA about the consequences of non-receipt of such premium from the employer as per Rajiv Kumar Bhasker case (supra), he or his family cannot be made to suffer the consequences emanating from such default on their part.

Accordingly, the complaint is allowed in favour of the complainants and against OPs. OP1 and OP2 are held liable, jointly and severally, to pay the claimed amount with respect Policy no. 262346924 having insured value of Rs. 1,60,000/- to Complainant no. 1, Smt Santosh Devi, wife of the DLA and also pay claimed amount with respect to policy no. 262348185 having insured value of Rs. 3,20,000/-to complainant no.2, Ms. K. M. Tanushree, daughter of the DLA. Further, as the life assured had expired on 13.10.2016 and the said amount was not paid since then, therefore, OP1 and OP2 are also liable to pay the interest there upon, which deems to be fit @ 6% p.a. from 13.10.2016, i.e. the date of death of the DLA till its realisation by the complainants. The complainants have also demanded the compensation for an equal amount in lieu of their suffering of trouble, inconvenience, financial loss, harassment and mental agony, however,, in the facts and circumstances, they are held entitled for the compensation equally from the OP1 and OP2, to the tune of Rs. 40,000/- along with the Litigation expenses of Rs. 20,000/-, which will be payable equally by OP1 and OP2 .

Conclusion of findings -

7. OP1 and OP2, jointly and/or severally, are directed to pay the claim of the complainants as follows:

- 7.1. To pay to the complainant no.1 Smt Santosh Devi, (wife of the DLA) insured amount of Rs. 1,60,000/- with respect Policy no. 262346924 along

with interest @6% p.a. calculated from 13.10.2016 till final realisation by the complainant no.1;

7.2.To pay to complainant no.2 Ms. K. M. Tanushree, (daughter of the DLA) insured amount of Rs. 3,20,000/- claim with respect Policy no. 262348185 along with interest @6% p.a. calculated from 13.10.2016 till final realisation by the complainant no.2;

7.3. To pay Rs.40,000/- towards compensation for their sufferings, harassment and mental agony in 50:50 ratio to complainant no.1 and 2;

7.4. To pay Litigation expenses to that tune of Rs. 20,000- that too in 50:50 ratio to complainant no 1 and 2

The above stated amount be paid to the complainants within 45 days from the date of this order, failing which the allowed amount of Rs. 3,20,000/- and Rs. 160,000/- shall carry higher interest at the rate of 9% p.a. from 13.10.2016 till final realisation by the complainants. The OPs are at liberty to deposit the said amount in the Registry of this Commission by way of valid legal instrument in favour of each complainant.

8. Announced on this 14th day of October, 2024. Copy of this Order be sent/provided forthwith to the parties free of cost as per rules for compliances, besides to upload on the website of this Commission.

[Rashmi Bansal]
Member (Female)

[Inder Jeet Singh]
President