

Janata Personal Accident Policy

**Bhubneshwar Ombudsman Centre
Case No.14– 003-0389
Sri Parameswar Patel
Vs
National Insurance Co. Ltd.**

Award Dated : 12.11.2007

Insured Complainant's son late Manoj Kumar Patel was covered under Janata personal accident insurance policy of National Insurance Co. Ltd for a period of ten years commencing from 01-09-2004 for an Sum Insured of Rs 100,000/.. On 5-4-2006 insured was knocked down by an unknown truck. Incident was reported to Sundargarh Sadar P.S. vide F.I.R. No: 37(3) dated 5-4-2006 u/s 279/304 (A) IPC.

Complainant intimated the insurer and sent all the required documents to through Golden Multi Services Club on 16-12-2006 for compensation. Complainant also served a legal notice to insurer on 12-08-2007 for settlement of his claim. Insurer sat over the matter.

Being aggrieved complainant approached this forum.

Insurer did not file the Self Contained Note.

During hearing Insurer did not appear despite of notice served on them.

Complainant stated that he had submitted the death certificate ,Post Mortem report and FIR copy to the insurer a long back. But they did not care to write a single line about his claim.

Honourable Ombudsman directed the insurer to pay Rs 100,000/ to the complainant as death was happened due to Road Traffic Accident and insurer did not care to attend the hearing to defend their case.

**Chennai Ombudsman Centre
Case No. : IO(CHN) 11.03.1307 /2007-08
Smt.S.Vijaya Bharathi
Vs
The National Insurance Co. Ltd.**

Award Dated : 26.08.2008

The complainant stated that her husband, a heavy vehicle driver had taken a JPA policy from National Insurance Co. Ltd, Divisional Office III, Kolkotta through Golden Trust Financial Services, Kolkotta.. He died on 07.10.2004 due to electrical shock. He climbed on top of the stationary lorry to probably check the load and suffered serious injuries due to an electrical shock from a wire running above the vehicle. Although she had intimated the insurer on 19/11/2004 along with all the necessary papers, the insurer had not settled the claim because of delayed intimation of claim. The claim had been closed as "No Claim" because of delayed information. Death was intimated after 42 days from the date of loss. Although she had clarified the reasons for the delay, the insurer had not yet settled the claim. She said that husband had another policy with the

same insurer at Namakkal. The claim under that policy for Rs.2,00,000/- was already settled by the insurer

The insurer contended that the complainant had intimated the death of her husband to Golden Multi Services Club on 19.11.2004 after 42 days of the insured's death on 07.10.2004. As per the policy condition no.1 of the Group JPA policy the accident has to be intimated to the Company within a maximum period of one calendar month i.e. 30 days.

The documents such as FIR, Post Mortem report, Death Certificate, repudiation letter, etc were perused. On perusal of the documents it was seen that one office of the insurer had settled the claim under PA to Owner driver section of Motor policy but the Kolkotta office had rejected the liability under the JPA policy. The reason for rejection is only due to delayed intimation of claim and not for any other reasons. The settlement of the claim under the motor vehicle insurance PA section by the Namakkal Division of the insurer clearly establishes that the insurer has satisfied themselves regarding the genuineness of the claim. It is observed that the death took place in Karnataka state and all the documents were in the local language. The statement of the complainant that the delay was due to her mental and physical condition following the demise of her husband and she was nursing a 4 month old baby when the accident took place is understandable. The insurer was directed to condone the delay of 12 days in intimating the claim by the complainant and process and settle the claim as per the other terms and conditions of the policy, after checking with their Divisional Office at Namakkal (under Coimbatore Regional Office.)

The complaint was allowed.

Chennai Ombudsman Centre
Case No. : IO(CHN)/11.04.1324/2007-08
Smt.A.Mohanambal
Vs
United India Insurance Co. Ltd.

Award Dated : 29.02.2008

Mrs Mohanmambal stated that her husband, Late A.Arumugam had taken a long term JPA policy for the period 09.12.1998-09.12.2010 for a sum insured of Rs.5,00,000/-. He has also taken a PAPolicy on 16/10/2001 for a sum insured of Rs.2,00,000/- and the policy has earned a cumulative bonus of Rs.50,000/-. Both the policies were taken with the branch office of United India Insurance Co. Ltd. at Mettur Dam. The insured met with an accident on 27.04.2002 and died on 28.04.2002 due to burns suffered in the accident on road while driving a TVS 50 moped. She had already submitted the PMR and the Police Investigation Report as well as the final investigation report of Omalur Police to Karumalaikoodal Police station. The post mortem had also been arranged by the police officials . The complainant said that the insurer neither declined nor admitted her claim for over 3 years and had been saying that they would settle the claim after receiving CB-CID final investigation report.

The insurer stated that they had a doubt in the claim and investigated the claim to verify its genuineness. Since the investigators had also viewed the death as a mysterious one and to unravel the facts regarding the death of late Arumugam, they had requested for CBCID investigation to probe the matter further and to ascertain the true and actual cause of death. As per the orders of the office of the Addl.DGP, Crime Branch CID, Chennai 600 002 dated 16.02.2004, the Omalur Crime Branch police were investigating the case and the insured was yet to receive their definite findings. They feel that it could be either murder or suicide in this case, and same can be established only after obtaining the CB-CID final investigation report. On receipt of their finding

and the facts of the case from the CBCID, they would proceed further and the claims would be disposed off as per the terms and conditions of the policies.

.On examining the reports of the investigator and of the various police and state government officials including the report of the Forensic science department, Post mortem report, accident vehicle report, and policy conditions it was seen that police authorities had confirmed the death "as death due to burns caused by accident". The insurer could not prove conclusively beyond doubt that the cause of death was other than accident. Insurer was directed to settle the claim under both JPA and PA policies. The complaint was allowed.

Chennai Ombudsman Centre
Case No. : IO(CHN) 11.03.1384 2007-08
Smt.B.Saraswathy
Vs
National Insurance Co.Ltd.

Award Dated : 19.03.2008

The complainant Smt. B Saraswathy, 70 years old , taken a long term JPA policy for a sum insured of Rs.1,00,000/-. She suffered a fall in the bathroom and she had become unable to walk or do any of her routine work. Her treating doctor had certified that her disability was total. The insurer had rejected her claim stating that the disability is only temporary. She is still in a permanently disabled condition and since the insurer had refused to settle the claim she had approached the forum for early settlement.

The insurer stated that as per the JPA insurance policy, 100% of Sum Insured is payable only on death or permanent total disablement. The claimant had submitted a treating doctor's certificate that stated that her disability is only 30%. Investigation carried out by an independent agency established that the treatment was taken as outpatient and the disability was only 30% according to the treating doctor. The investigator had also taken photographs of the insured person. Since the patient was not totally incapacitated and suffered only 30% disability, claim was repudiated.

Documents such as Policy copy, Claim intimation, Claim form , Treating doctor's certificates, repudiation letter investigation report etc were scrutinized.

On perusal of the documents it was seen that as per policy conditions, the Capital sum insured is payable only on death or if there is total and irrevocable loss of use of both eyes, both hands or both feet or one eye and one hand or one foot. As per the treating doctor's certificate, submitted by the insured, although the insured had permanent physical disability after the accident, the disability is 30% in the left lower limbs. The investigator has also confirmed this. The disability of Mrs. Saraswathy therefore cannot be claimed to be permanent total.

The Complaint was dismissed.

Guwahati Ombudsman Centre
Case No : 14-003-0023/07-08
Sri Runu Dey
Vs
National Insurance Co. Ltd.

Award Dated : 28.02.2008

FACTS

This is a complaint lodged by Shri Runu Dey for repudiating the claim lodged by him before the insurer under the above policy. The facts involved is that the complainant, being a driver, while driving vehicle no. AS-25C-0699 (Truck) on 14.09.03, met with an accident when his vehicle dashed against an electrical transformer installed in Chittaranjan Road of East Agartala and due to such impact, a fire broke out because of short circuit in the transformer. The H.T. fuse was also burnt and in that incident, driver Runu Dey sustained serious burn injuries on both his legs, fore-arms and on abdomen. He was immediately thereafter shifted to local Hospital wherefrom he was taken to SSKM Hospital at Kolkata on being referred wherein both his legs were amputated. The complainant, Runu Dey had the above policy and the insurer was informed. In due course, he had submitted his claim followed by reminders for settlement of the claim, but the insurer has ultimately repudiated the claim on the ground that he had driven the vehicle concerned at the relevant time without a valid Driving Licence (DL) which is a violation of law and punishable under the M.V. Act. This causes the complainant to approach this Authority with the above complaint.

The insurer has neither submitted the P-forms nor responded to the notices issued from this Authority.

Decisions & Reasons

The copy of the policy has not been furnished. However, the claim form and the letter of M/s. Golden Trust Financial Services, being TPA, goes to show that the complainant had the above Janata Personal Accident Policy and he had submitted the claim form before the insurer, through TPA, claiming the benefit under the policy for the accidental injuries. The Golden Trust Financial Services, on receipt of the claim form and other documents, forwarded the same to the insurer above named for settlement of the claim. The copy of letter dated 30.11.07 issued by the insurer to the complainant also makes it clear about the existence of the policy and the said letter of repudiation discloses that claim of the complainant has been repudiated for not having a valid DL of the complainant while driving the vehicle at the relevant time of the accident. The insurer has observed that driving a vehicle without obtaining a valid DL is a violation of law and punishable under the act and accordingly, the claim of the complainant has been treated as 'No Claim'.

The copy of the FIR dated 14.09.03 lodged by SDO (Electrical) Sub Division No. II of Agartala before the OC East Agartala shows that on 14.09.03, truck no. AS 25C 0699 knocked the transformer based in Chittaranjan Road which causes a fire incident resulting burning of the transformer and in the said incident, two persons were found responsible for driving the vehicle in rash and negligent manner and the injured were shifted to GB Hospital by the local people. Police accordingly registered case no.156/03 and investigated the matter and on completion of investigation, submitted the charge sheet against accused Runu Dey (complainant) for his rash and negligence act in driving vehicle no. AS 25C 0699. The above police report makes it prima facie clear that the accident occurred due to the negligence of Runu Dey who also sustained his injuries. The discharge certificate issued by GB Hospital – Tripura also discloses that Runu Dey was admitted in that hospital on 14.09.03 for treatment of Deep burn (electrical) with gangrene (left) lower limbs and the said hospital referred him to Plastic Surgery Department of S.S.K.M. Hospital, Kolkata on 26.09.03 while he was being discharged from the aforesaid hospital. The copy of discharge certificate of S.S.K.M Hospital available in the file, also shows that Runu Dey was treated in that hospital from 01.10.03 to 15.12.03 for treatment of burn electrical injuries over legs, fore-arm and abdomen and both his legs were amputated there. The Government of Tripura vide certificate no.1356 dated 21.01.04 declared Runu Ch Dey to be an Orthopaedically

(locomotor) handicapped person and his extent of disability is stated to be 100% for amputation of legs.

As per the policy condition so far as the above disability is concerned, the claim appears to be maintainable. The claim is, however, repudiated by the insurer on the ground that the complainant drove the vehicle, involved in the accident, at the relevant item without a valid DL.

The copy of the DL of the complainant Runu Dey has also been filed which shows that originally D/L no.568 KXJ/PROF.87 was issued in the name of Runu Ch Dey by DTO, Karimganj which was subsequently renewed upto 05.09.03. From the endorsement available in the licence, it appears that the subsequent renewal, on expiry of the term on 05.09.03, was done from 22.09.03 to 21.09.06 which makes the position clear that there was neither renewal nor anything to prove any authority to drive the vehicle by the complainant during the period from 06.09.03 to 21.09.03.

Section 3 of the M.V. Act, 1988 provides that possession of a valid DL is a must for driving a vehicle and consequently violation of the provision makes the offender to face prosecution. The policyholder appears to have driven the vehicle without having a valid DL on 14.09.03 when he sustained injuries in the accident which ultimately required amputation of his legs, making him physically handicapped. The exceptions provided under the policy, amongst others, shows that the insurer shall not be liable to pay any claim in respect of death, injury or disablement of the insured in case such injury arose or resulted from the insured committing any breach of law with criminal intent. In the instant case also, driving a vehicle without a valid DL by the complainant is a breach of law and for that reason attracts criminal action and repudiation of the claim by the insurer in such a circumstance needs no interference.

However, the position is clear that the insured had the above policy and the accident has also occurred while it was in force. He was a driver by profession and the accident made him a permanently disabled one forever having amputation of both the legs. He has become unable to continue his profession as a driver during the rest period of his life and the scope of his earnings has also been blocked. Considering the fate under the circumstances, I feel it proper to award some ex-gratia payment in the form of financial relief invoking the provision of Rule 18 of the R.P.G. Rules.

The insurer shall settle the claim within 1 month therefrom.

Hyderabad Ombudsman Centre

Case No.G-11-004-0161

Smt. I. Sudha Devi

Vs

United India Insurance Co. Ltd.

Award Dated : 25.10.2007

Brief facts : Sri I. Satyanarayana Raju was covered under a long term Janata Personal Accident policy issued by United India Assurance Co. Ltd., Bhimavaram for the period 24.3.1999 to 23.3.2009 for a sum assured of Rs. 6 lakhs. He died on 25.11.2003 due to drowning in the Godavari canal. The insurer deputed their Surveyor in 12/2003 on being intimated about the claim and the surveyor submitted his report only on 18.10.2006.

The insurer approved the claim for a reduced amount of Rs.375,000 and informed the claimant accordingly. The reasons for such a reduction was informed through a letter dated 16.7.2007 and also cautioned the claimant that necessary costs would be recovered if she approaches the Insurance Ombudsman.

Contentions of the complainant: She stated that from 12/2003 to 08/2007 she had to make several rounds of follow up with the insurer. The requirements were called for in piecemeal. Her husband was having adequate income to become eligible for full sum assured and she should be paid full insured sum.

Contentions of the Insurer: They granted insurance of Rs.6 lakhs to the deceased based on the declaration dated 24.3.1999 that his income was Rs.150,000 per annum. After the claim was lodged, they asked the claimant to submit proof of her husband's income and she submitted proof to the extent of Rs.75, 370/-. As per their rules, sum assured up to a maximum of five times of the proven annual income is admissible and hence they offered an amount of Rs.375, 000.

Decision : The insurer could not show any policy condition or guidelines in support of their contention that claim would be paid as per income proof. Any such verification regarding income should be done by the insurer before entering into a contract and not after a claim is reported.

The insurer has not produced any basis for requirements called for by them and in the absence of any such evidence, the complainant cannot be blamed for not cooperating with their surveyor. The insurers expressed regret for the inappropriate letter written to the complainant on 16.7.2007. There was a delay of more than three years in the processing of the claim papers and the insurer could not explain properly the reasons for such abnormal delay. Hence it was decided to order payment of full sum assured of Rs.6 lakhs with interest as per IRDA guidelines for the period from 1.6.2004 till the date of payment.

Hyderabad Ombudsman Centre
Case No.G-11-003-0179
Sri A.S.C.Laxma Reddy
Vs
National Insurance Company Ltd.

Award Dated : 25.10.2007

Brief facts : Sri A. Satyanarayana was covered under the Group Janata Personal Accident Policy granted to the employees of the Hindustan Cables Ltd. Co-operative Credit Society by the insurer. All the members of the society were covered for a sum assured of Rs.1 lakh from 8.2.2006 to 7.2.2011. Sri Satyanarayana had earlier obtained an individual long-term J.P.A.Policy for a sum assured of Rs.4 lakhs from the insurer's Tarnaka Branch for the period 3.2.1998 to 2.2.2008. He died on 12.1.2007 in a road accident. The complainant is the son of the insured and when he lodged a claim under both policies, the insurer settled claim for Rs.1 lakh and rejected liability under the second policy for Rs.400, 000.

Complainant's contention: He submitted all documents to the insurer, but claim under the second policy was refused wrongly.

Insurer's contentions: Claim for Rs.100, 000 was lodged on 19.1.2007 and the amount was paid on 4.5.2007. The claim intimation for the second policy was lodged in their Tarnaka branch on 29.1.2007. They rejected claim under the second policy as the maximum liability of the insurer as per condition No. 6 of the policy will be limited to Rs.100, 000.

Decision : The insurer could not explain why a policy for Rs.4 lakhs sum assured was issued when there is a limit of Rs.1 lakh on the claim amount payable. The insurer also confirmed that they were giving policies for sum assured up to Rs.10 lakh under the JPA policy. Further, it was observed that the insurer issued the policy for Rs.4 lakhs

after striking off the printed sum assured of Rs.15,000. Hence, it was decided to order the insurer to pay claim of Rs.4 lakhs under the policy.

Hyderabad Ombudsman Centre
Case No.G-11-005-0278
Smt. Paravva B. Nashipudi
Vs
Oriental Insurance Co. Ltd.

Award Dated : 28.01.2008

Brief facts : Smt. Paravva filed the complaint against rejection of JPA death claim following the death of her son Sri Mahantesh Balappa Nashipudi in an accident. He was insured under a group JPA policy issued by M/s Oriental Insurance co. Ltd., covering members of the Sankeshwar Souhard Credit Sahakari Ltd., Sankeshwar for the period 19.1.2006 to 18.1.2011 for a sum insured of Rs. One lakh each. The insured's dead body was found on the morning of 7.11.2006 and as per police records death was due to road accident. When a claim was lodged by the complainant, the insurers did not settle the claim and expressed doubts about the cause of death.

The insurers expressed doubts regarding (i) distortion of the dead body (ii) clothes being absent on the dead body (iii) genuineness of involvement of a motor vehicle in the accident as there was no eye witness.

Decision : A hearing was held on 4.1.2008 at Bangalore. The complainant's side stated that LIC had settled claim together with double accident benefit. The father of the deceased stated that his son died in a road accident. As per records, a charge sheet under Sec.279 and 304 (A) of IPC against the driver of the offending vehicle is available and it is thus reasonably established that the insured died in a road accident. The insurers have not shown any proof to substantiate their doubts. Hence it was decided to order the insurer to admit the claim. The complaint was allowed.

Kochi Ombudsman Centre
Case No. : IO/KCH/GI/11-004-376/2007-08
Smt.Leelamma Jose
Vs
United India Insurance Co. Ltd.

Award Dated : 26.03.2008

The complaint falls under Rule 12(1)(b) read with Rule 13 of the RPG Rules 1998. The complainant's son Sri.Jacob J Chackacherry had taken a Janata Personal Accident Policy with his mother as nominee for an assured sum of Rs.1.5 lakhs. On 11.6.06 he died in an accident. In spite of having a valid nomination in favour of his mother, the insurer is insisting a legal heirship certificate and consent from other legal heirs for releasing the claim amount. There is no dispute to the fact that the insured died in an accident and insurance amount is payable. There is also no dispute that valid nomination exists in favour of his mother. The only question to be considered is whether the nominee is entitled to collect the amount without the concurrence of other legal heirs. Section 39 of Insurance Act 1938 is very clear that holder of a policy on his own life can nominate a person or person to whom the money secured by the policy shall be paid in the even of his death. The only exception is in the case of policy taken under MWP Act 1874. Here the policy is not taken under MWP Act. The policy was taken while he was unmarried. As per Section 39 of Insurance Act it is clear that the nominee can collect the amount on behalf of legal heirs. It is a well settled law that a nominee can give valid discharge to the insurer without the consent of other legal

heirs as far as the insurer is concerned. In the result an award is passed directing the insurer to pay a sum of Rs.1,50,000/- with 8% interest to the nominee, the complainant.

Kolkatta Ombudsman Centre
Case No. 139/11/003/NL/06/2007-2008
Smt. Punam Kumari
Vs.
National Insurance Co. Ltd.

Award Dated : 25.02. 2008

Facts & Submissions :

The complaint was filed against repudiation of an accidental claim under Group J.P.A. Policy on the ground of 5 months delay in intimation.

The petitioner, Smt. Punam Kumari stated that her husband Late Rajib Ranjan was covered under Group J.P.A. Policy of National Insurance Co. Ltd., issued to M/s. Golden Multi Services Club of Golden Trust Financial Services Ltd. for a sum of insured of Rs.5,00,000/- and the complainant was the nominee of the deceased. After 12 days from taking insurance her husband died in a road accident on 11.04.2004 near her village Kanti. On 27.04.2004 the complainant contacted Golden Trust Financial Services, Muzaffarpur after the death of her husband and they suggested the petitioner to submit claim with all relevant papers, viz. F.I.R., Police Report, Death Certificate etc. But she received original policy document on 26.06.2004 after 2½ months from the death of her husband. The petitioner had to spend valuable 5 months in obtaining Death Certificate and F.I.R. due to the reason that during that period all the Government institutions and the police were busy for election purpose. After the election was over the petitioner obtained all the documents necessary for her claim, and submitted it to the insurance company. The petitioner also submitted a paper cutting regarding the said election in support of her contention why she was unable to obtain the documents required for her claim. After the claim was denied by the insurance company due to delay in submission, the petitioner submitted her representation dt.29.12.2005 to the insurance company stating the reasons for her inability to submit the claim in time. The insurance company thereafter replied to the complainant on 12.06.2006 stating that the reasons stated in the representation were not substantiated by any documentary evidence and therefore, they could not accept the contention of the complainant. Further, condition No.1 of the Group J.P.A. Policy only stipulated 1 month's time for intimation of loss after the occurrence of such incident. Therefore, the Insured could intimate loss in time and the reasons stated in her representation can not be an impediment in intimating the loss. The complainant not being satisfied on such decision of the insurance company filed this petition for relief of Rs.5,00,000/- as sum insured + Rs.2,50,000/- as interest & other expenditure.

The insurance company in their self-contained note dated 13th February, 2008 stated that repudiation of the claim was made by their TPA, Golden Multi Services Club due to delay in intimation of the claim under Condition No.1 of the Group Janata Personal Accident Policy.

Decision :

This office considered the facts and circumstances of the case as well as the materials available on records. Hon'ble Ombudsman was satisfied with the reasons given by the complainant and therefore, waived the delay in filing the claim papers under policy condition No.1 of Group Janata Personal Accident Policy. He also agreed with the request of the Insurance Company to have an opportunity to investigate and processed the claim. As the delay in submission of the claim had already been waived, Hon'ble Ombudsman directed the insurance company to investigate and process the claim. He

also directed the insurance company that this exercise had to be completed within 30 days.