**(1996) 07 NCDRC CK 0054**

**In the National Consumer Disputes Redressal Commission**

Branch Manager, LIC of India APPELLANT

Vs

D.VENKATA LAXMANA BABU RESPONDENT

**Date of Decision :** 08-07-1996

**Acts Referred:**

**Citation :** 1997 1 CPJ 516 : 1997 2 CPR 304

**Hon'ble Judges :** A.Venkatarami Reddy , J.Ananda Lakshmi , K.Ranga Raos J.

**Final Decision :** Appeal allowed

## Judgement

1. THE complainant in CD 156/93 District Forum, Khammam has taken a limited life insurance (under table 5) on 20.7.83 for a sum of Rs. 2 lakhs from the opposite party No. 1. According to the terms and conditions of the policy, the complainant has to pay a sum of Rs. 2,615/- towards the half yearly premium for a period of 30 years. THE policy amount will be paid after the death of the policy holder to his survivors. But the policy provided that the policy holder during his life time can surrender the policy and obtain a loan upto 90% of the surrender value as was prevailing in 1983. It is the case of the complainant that in the year 1988 when he approached the opposite party No. 1 i.e., the Branch Manager, LIC of India, Khammam and the Divisional Manager was also made a second opposite party, for obtaining loan on the surrender value of the policy, he was informed that the surrender value of the policy was reduced with effect from 1.7.88. But according to the complainant as the policy was obtained in the year 1983, at that time the surrender value of the policy was much more than the surrender value payable after 1.7.88 and, therefore, the complainant was entitled for payment of the surrender value prevailing in 1983. He, therefore, prayed in the complaint to direct the opposite parties to retain the surrender value under the policy that was prevailing in the year 1983.

2. A counter was filed by the opposite parties contending that the complaint is barred by time as the cause of action arose in the year 1988 and the complaint was filed in the year 1993, and that the relief claimed is not one of the reliefs that can be granted by the District Forum, that according to the terms and

conditions of the policy what was agreed to be paid is only the guaranteed surrender value and, therefore, there is no deficiency of service on the part of the opposite parties, that the complainant is legally entitled only to the guaranteed surrender value and cannot claim the higher amount which is allowed by the Corporation by way of special surrender value which may change from time to time and the special surrender value mentioned in the instructions book meant for the internal use of the officials for calculating special surrender value does not form part of the terms and conditions of the policy and the complainant cannot take advantage of such instructions as a matter of right, even otherwise the complainant is entitled for calculation of the special surrender value according to the instructions and guidelines prevailing on the date of the application of the loan and as the application was made subsequent to 1.7.88, the special surrender value has to be calculated on the basis of the instructions prevailing on that date. Hence the opposite parties prayed for dismissal of the complaint. The complainant was examined as PW 1 and no documents were marked. On behalf of the opposite parties, the Administrative Officer of LIC Branch Office, Khammam was examined as RW 1 and Exs. B-1 to B-5 were marked.

Ex. B-l is the policy issued by opposite party No. 1. Ex. B-2 is table No. II mentioning the surrender values of limited payment life policy for Rs. 100/- paid up sum assured. Ex. B-3 is limited payment life policy surrender value for Rs.100/- paid up in respect of the policy which commenced on or before 1.9.88, Ex. B4 is the receipt of payment of Rs. 40/- being the surrender value of booklet, purse and key chain and Ex. B 5 is a book of surrender value.

3. THE District Forum found that according to the rules prevailing under the special surrender value at the time of issue of the policy, the complainant is entitled for calculation of the surrender value and also for grant of loan at 90% of the surrender value and that any change of rules, does not effect the benefits for which the complainant was entitled to at the time of issue of the policy, and thereafter to the grant of loan on that basis. In this appeal preferred by the opposite parties, it is firstly submitted that according to the terms and conditions of the policy, the opposite parties agreed for a minimum surrender value and that there is no mention of special surrender value in the policy. Even if the Corporation has evolved a special procedure under which the policy holder gets more than what is due under the guaranteed surrender value, but it cannot be said that such a thing was agreed to between the parties and that failure to calculate the special surrender value will amount to any deficiency of services as the opposite parties did not agree under the policy to pay the special surrender value extending upto 90% loan on premiums paid. Secondly it is submitted that guaranteed surrender value allowable under the policy is equal to 30% of the total amount within mentioned premium paid excluding the premium for the first year and all extra premiums and/or additional premium for Accident Benefit that may have been paid. The cash value of any existing vested bonus additions will also be allowed, and it, therefore, not correct to say that the opposite parties

 

agreed to pay 90% of the surrender value by way of loan. It is next submitted that in any event the complainant is entitled only for the special surrender value calculated according to the tables as on the date of application for loan and that in any event the instructions given in the booklet are merely for the use of the Officers and the complainant has no right to claim on that basis.

4. IN order to appreciate the contentions raised in this appeal it is necessary to refer to the terms and conditions of the policy issued. The policy does not mention anything about the special surrender value. The policy speaks of guaranteed surrender value which reads as follows: "This policy can be surrendered for cash after the premium have been paid for atleast three years. The minimum surrender value allowable under this policy is equal to 30% percent of the total amount of the within mentioned premiums paid excluding the premiums for the first year and all extra premiums and/or additional premium for Accident Benefit that may have been paid. The cash value of any existing vested bonus additions will also be allowed".

Thereafter it is mentioned that under the heading "loans" "These are granted subject to the following terms and conditions within the surrender value of the policy for such amounts and on such further terms and conditions as the Corporation may fix from time to time and subject to production of satisfactory title, and that the policy shall be assigned to the Corporation". Thus the policy speaks of minimum surrender value allowable is equal to 30% of the total amount of the premium paid for more than three years after excluding the first year premium etc. It does not speak of any special surrender value and for sanction of the loan upto 90% of the said special surrender value. Thus the special surrender value is not part of the contract and does not constitute terms and conditions of the policy. If the INsurance Company fixes any special surrender value over and above the minimum surrender value, it is merely a concession or a benefit given to the policy holder. But the policy holder has no right for payment of special surrender value as it is not part of the contract between the insurer and insured and it cannot therefore be said that the fixation of special surrender value and permitting the loan upto 90% of special surrender value is no part of the service which the INsurance Company agreed to render. The complainant relies on a book of special surrender value Ex. B 5 wherein tables are given to have a special surrender value fixed as mentioned in table II at page 49 of the Book of surrender values for Rs. 100/- paid up sum assured. These new tables of surrender value were made applicable with effect from 1.7.88. These instructions with regard to special surrender value are not made in exercise of any statutory power and they are merely instructions for departmental use. What is agreed to between the parties under the policy is to pay the minimum guaranteed surrender value. In Chairman, LIC of India v. A. Narasamma, I (1992) CPJ 128 (NC)=1992 (1) CPR 425, the National Consumer Disputes Redressal Commission held that the violation by L.I.C. of India certain departmental circulars issued by the LIC to all its branches will not amount to deficiency of service. In the instant case also the terms and conditions of the special surrender value was not made part of the terms and conditions of the policy. As long as the opposite party pays the minimum guaranteed surrender value, it cannot be said that there is any deficiency of service on the part of the opposite parties. Even otherwise under the terms and conditions for grant of loans, it is clearly stated that the loans are granted subject to the terms and conditions within the surrender value of the policy for such amounts and on such further terms and conditions as the Corporation may fix from time to time. Hence, since the complainant is seeking a loan some time in the year 1988, the amount sanctioned by the loan has to be fixed on the special surrender value prevailing as on the date of the application for loan. The complainant is not entitled under the terms and conditions of the policy to have the special surrender value fixed on the date of the obtaining of the policy. In our view the applicability of the surrender values is dependent on the date of seeking of the loan and not those prevailing on the date of the policy, as the special surrender values are not made part and parcel of the policies. Moreover the complainant prayed for a direction to the opposite parties to retain the surrender value of the said policy in the old scheme that was in vogue in the year 1983 i.e., date of policy.

5. SECTION 14 of the Consumer Protection Act enumerates the reliefs that can be granted by the District Forum. The nature of the relief claimed in this complaint does not come under any of the reliefs (a) to (h) of SECTION 14 of the Consumer Protection Act. Hence the relief that is claimed by the complainant does not come within the purview of the reliefs enumerated under SECTION 14 of the Consumer Protection Act and, therefore, beyond the purview of the reliefs that can be granted by the District Forum.

6. FOR all the aforesaid reasons, we allow the appeal and set aside the order of the District FORum. There shall be no order as to costs in this appeal. Appeal allowed.