

Allegation of misrepresentation concerning basic life cover – universal life policy – insurer neglecting duty imposed by policy

Background

The complainant had taken out two life policies during 1990 and 1991 respectively. At the time of applying for the life policies, the complainant was a 70 year old widow who anticipated that she would require financial assistance in years to come. She intended to request her 5 children to contribute equally to her maintenance and the 5 children were then named as joint beneficiaries in the two policies. She understood that policy 1 would have a death value of approximately R30 000.00 whilst policy 2 would have a death value of approximately R45 000.00.

In 2004 the complainant discovered that policy 1 had a lesser death value of approximately R20 000.00 whilst policy 2 had a lesser death value of approximately R28 000.00. She approached the insurer about the discrepancies in death values and alleged that if the lower values were the correct values, the intermediary who had arranged the policies had misrepresented the situation to her. The insurer investigated the position and advised the complainant that the policy contracts made provision for the higher death values to be payable but only if a constant annual growth of 15% were maintained. Because of the economic conditions that existed during the relevant period, the anticipated growth of 15% could not be maintained. The insurer therefore rejected the allegation that there had been misrepresentation.

The complainant approached our office for assistance.

Discussion

Our office made enquiries and it transpired that the complainant had applied for and had been given life cover without any guaranteed amounts. The insurer indicated its willingness to increase the death values of both policies to the amounts required by the complainant, provided that she made lump sum injections of approximately R16 000.00 on both policies, alternatively, if she increased her premium payments. Since the complainant was 84 years old, neither of these options was acceptable to her. She then requested us to approach the insurer to convert the life policies to endowment policies. The insurer advised us that this was not possible.

The policy 1 contained a provision to the effect that “provided that appropriate steps were taken at contract reviews, the benefit payable on death is guaranteed not less than the initial Basic Life Cover”. The insurer acknowledged that since it had neglected to attend to the appropriate provision of the contract, it would pay in the proposed lump sum in order that policy 1 pay out the full value as stated.

We advised the complainant of the offer, but she insisted that the insurer pay in the required lump sum amounts in both policies as she maintained that there had been a misrepresentation.

Result

Since there was no evidence of any misrepresentation and since policy 2 did not have a similar provision to policy 1 concerning the “appropriate steps”, we advised the complainant that we were not in a position to take the matter further and suggested that she accept the offer made by the insurer, which she eventually did.

HE
April 2006