

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, ERNAKULAM**  
Dated this the 29<sup>th</sup> day of September, 2025

**PRESENT**

Shri. D.B. Binu  
Shri. V. Ramachandran  
Smt. SreevidhiaT.N

Filed on: 28. 11. 2023

Hon'ble President  
Hon'ble Member  
Hon'ble Member

**CC.No. 903 of 2023**

**COMPLAINANT:**

Abdul Nazar.K.P., Kariveliparambu, 4/128C, Kadavilan Eloor, Near Happy Bakery Junction, Muppathadam.P.O, Ernakulam 683110.  
(Adv. Mishal. M. Dasan , Flat No. 55/2332, Cheruparambath Apartments, Mattalil Temple Road, Kadavanthra.P.O, Ernakulam-682020)



**VS**

**OPPOSITE PARTY:**

Kotak Mahindra Old Mutual Life Insurance Limited. A JOINT VENTURE WITH OLD MUTUAL, Corporate & Registered Office , 4<sup>th</sup> Floor, Vinay Bhavya Complex, 159A, CST Road, Kalina Santacruz East, Mumbai-400098.

**FINAL ORDER**

**D.B. Binu, President**

**1. A brief statement of facts of this complaint is as stated below:**

The complaint was filed under Section 35 of the Consumer Protection Act, 2019, alleging a deficiency in service and unfair trade practice by the Opposite Party (insurer and its concerned office). The complainant availed an insurance policy titled "Kotak Surakshit Jeevan" (UIN-107N042V01) on 21.07.2012 by paying ₹30,000/- as the first premium, with a sum assured of ₹2,13,245/-. The policy was renewed on 15.08.2013 upon payment of ₹29,551/- as the second premium. The policy was scheduled to mature on 17.07.2022. In

anticipation of maturity, the complainant approached the Opposite Party on 14.07.2022 seeking a refund of the amounts paid and submitted a written request. The Opposite Party, however, rejected the request by letter dated 19.07.2022, citing non-renewal/continuation of the policy as the reason.

The complainant contends that, at the time of inception, the Opposite Party did not disclose that continued renewal was a necessary condition to recover premiums paid, and that the complainant—being unable to read and understand English policy terms—was led to believe that whatever premiums were paid would be returned at maturity. The complainant alleges deceptive and unfair trade practices and resultant deficiency in service, claiming monetary loss and mental agony, and seeks a refund of ₹59,551/- with interest @ 12% from the dates of payment, ₹2,00,000/- as compensation, and ₹20,000/- as costs.

### **2. NOTICE:**

A notice was issued to the Opposite Party on 18.12.2023. The postal article was returned endorsed "refused"; accordingly, service is deemed to have been duly effected. As the Opposite Party did not file its written version within the statutory period prescribed by law, the Commission proceeds against it ex parte.

### **3. EVIDENCE:**

The complainant filed a proof affidavit and produced four documents, which were marked as **Ext.A1 to A4**, as follows:

- **Ext.A1 – Copy of policy details**
- **Ext.A2 – Copy of acknowledgement of payment of the 2nd premium**
- **Ext.A3 – Copy of request letter dated 14.07.2022**
- **Ext.A4 – True copy of letter dated 19.07.2022**

### **4. POINTS FOR CONSIDERATION:**

i) Whether there is any deficiency in service or unfair trade practice by the opposite party?

- ii) If so, whether the complainant is entitled to any relief?
- iii) Costs of the proceedings, if any?



The Commission has carefully perused the complainant's proof affidavit and the documents on record. It is also noted that, despite being afforded an adequate opportunity, neither side has filed written argument notes.

**Ext.A4 - Summary (Letter dated 19.07.2022), issued by the opposite party.**

The insurer acknowledges receipt of the complainant's letter dated 14.07.2022 (received on 18.07.2022) regarding policy No. 62502040 (as stated therein). It states that the policy, issued on 21.07.2012 for a 10-year term, lapsed for non-payment of the renewal premium due since 17.07.2014; lapse and foreclosure notices were dispatched to the recorded address, no revival was sought within the two-year revival window, and the policy stood foreclosed thereafter. As per the policy terms, no surrender value accrues unless at least three annual premiums are paid; since fewer than three were paid, no refund is payable.

The law is settled that an insurance policy is a contract, and the rights and liabilities of the parties are governed by its express terms. Courts/Commissions cannot rewrite the contract or travel beyond its conditions.

The Hon'ble Supreme Court held that an insurance policy is a contract whose terms govern the parties' rights and liabilities; the insurer's liability is confined to risks expressly covered, and the insured cannot claim beyond the policy. Applying this principle, consumer fora cannot rewrite, add to, or dilute contractual conditions such as lapse, revival, or surrender-value thresholds. "The insurance policy between the insurer and the insured represents a contract between the parties... the terms of the agreement have to be strictly construed...

The insured cannot claim anything more than what is covered by the insurance policy." **Oriental Insurance Co. Ltd. v. Sony Cheriyan** reported in (1999) 6 SCC 451

**5. Lapse for non-payment; revival period; and forfeiture.**

**Ext.A4** records that the renewal premium due on 17.07.2014 remained unpaid; the policy lapsed after the contractual grace period; lapse/foreclosure notices were sent; and no revival request was received within two years. The complainant has not produced any proof of premium payment post 15.08.2013, nor any revival application. Where the contract stipulates lapse upon non-payment and provides a time-bound revival window, failure to comply results in the consequences agreed by the parties.

The complainant seeks a refund of two premiums on maturity. However, **Ext.A4** states—consistent with standard non-linked endowment products—that a guaranteed surrender value accrues only after payment of a minimum stipulated number of annual premiums (here, three). The complainant paid only two. There is no material showing that this policy acquired a paid-up or surrender value on two premiums. In the absence of the contractual threshold being met, no surrender value/refund is payable.

**6. Allegation of non-disclosure/misrepresentation at inception.**

The complainant pleads that he was not informed that continued renewal was necessary, and that he could not understand the English policy terms. The burden of proving misleading representation or unfair trade practice lies on the complainant. Other than a bare assertion, there is no independent evidence of any positive misrepresentation regarding refunds, irrespective of premium continuity. On the contrary, policy schedules and benefit illustrations typically set

out premium-payment terms, revival provisions, and surrender/paid-up rules. In contracts of insurance, both parties are bound by **uberrimae fidei** (utmost good faith): the insured must disclose material facts; the insurer must state policy terms.

Mere inability to read English or omission to read the document, by itself, does not void contractual terms voluntarily accepted; a party signing a document is ordinarily bound by it unless vitiating factors (fraud, coercion, etc.) are proved. “Deficiency” under Section 2(11) CPA, 2019 requires a fault, imperfection or shortcoming in the performance of a service. The Opposite Party’s refusal was based on express policy conditions—lapse for non-payment and non-accrual of surrender value with fewer than three premiums. Acting in accordance with the contract cannot be labelled a deficiency. Nor has the complainant demonstrated any unfair or deceptive act under Section 2(47). The record discloses (via **Ext.A4**) that lapse and foreclosure notices were stated to have been issued; the complainant has not rebutted this with cogent evidence.

Though the Opposite Party stands *ex parte*, the complainant must still prove entitlement on the merits. On the present materials, the contractual prerequisites for refund/surrender are not satisfied; hence, the claim fails.

### **7) Findings on the Points.**

i) **Deficiency/UTP:** Not established. The Opposite Party acted in accordance with policy terms governing lapse, revival and surrender.



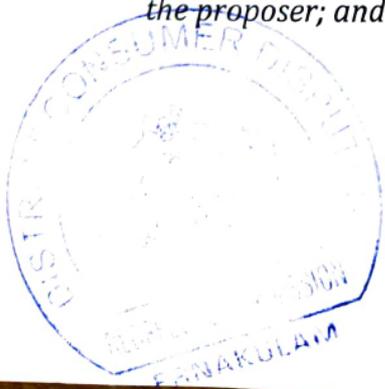
ii) **Reliefs:** The complainant, having paid only two annual premiums and not revived the policy within the stipulated period, is not entitled to a refund/surrender or compensation.

The present dispute is a consequence of non-payment of premiums after 2013 and the consequent lapse. Insurance contracts, particularly traditional endowment policies, commonly condition surrender value/paid-up benefits on a minimum number of premiums. Policyholders are advised to carefully review benefit illustrations and surrender/paid-up provisions at inception and to maintain renewals or promptly seek revival within the contractual window. Absent proof of misrepresentation or departure from the contract by the insurer, no deficiency arises when the insurer applies the policy as written.

*To promote fairness, transparency and orderly conduct in insurance markets, and to secure fair treatment to policyholders who may not be conversant with English, the Registry of this commission is directed to forward a certified copy of this Final Order to the Chairperson, Insurance Regulatory and Development Authority of India (IRDAI) within seven (7) days, highlighting that in the present case the complainant—being unable to read and understand English policy terms—was led to believe that all premiums paid would be returned at maturity.*

*The Commission recommends that IRDAI consider issuing suitable directions/advisories to all insurers to:*

*(i) make available the policy contract, key product information/benefit illustration, and critical clauses on lapse/revival/surrender in a vernacular language chosen by the proposer; and*



(ii) obtain a clear, recorded acknowledgement of such vernacular disclosure at the point of sale.

This recommendation is made in the interest of consumer protection and market integrity.

Upon an overall appraisal of **Exts. A1-A4** and the pleadings/written versions, the Commission finds that the complainant has not discharged the burden of proving deficiency in service, negligence, or unfair trade practice on the part of the Opposite Party. Accordingly, all issues are answered against the complainant.

### **ORDER**

- I. The complaint **fails on the merits** and is hereby **dismissed**.
- II. There shall be **no order as to costs**.

**Pronounced in the Open Commission on this the 29<sup>th</sup> day of September, 2025.**



Sd/- D.B. Binu, President  
Sd/-Shri. V. Ramachandran, Member  
Sd/-Sreevidhia T.N, Member  
Forwarded/By Order

*[Signature]*  
Assistant Registrar

### **APPENDIX**

#### **Complainant's Evidence:**

- Ext.A1 - Copy of details of Policy
- Ext.A2 - Copy of Acknowledgment of the payment of 2<sup>nd</sup> premium
- Ext.A3 - Copy of Request Letter dt 14/7/2022
- Ext.A4 - True copy of Letter dtd. 19/7/2022

#### **Opposite party's Evidence:- nil**

Date of Despatch

By Hand::

By post::BR/