

## Delhi High Court Comments on Powers of Insurance Ombudsmen

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### Introduction

The Office of the Insurance Ombudsman was established by the 1998 Redressal of Public Grievances Rules to provide a mechanism for the speedy redressal of policyholder grievances. Under Rule 12, an insurance ombudsman has jurisdiction to decide grievances in relation to:

- partial or total repudiation of a claim by an insurer;
- the premium paid or payable under the policy;
- legal construction of the policy on claims issues;
- delay in settling claims; and
- failure to issue any insurance document to a policyholder after the receipt of the premium.

### Facts

The powers of insurance ombudsmen were recently considered by the Delhi High Court in *Vinod Kumar Aneja v New India Assurance*, (1) which was a dispute concerning the renewal of a health policy.

The plaintiff had purchased a health policy from the National Insurance Company Limited in July 1999, which he renewed each year until July 2002 when he terminated the policy and purchased similar cover from New India Assurance, the defendant. The plaintiff made five claims between January and July 2003 which New India paid. At renewal, the plaintiff sent his premium cheque to New India, which it returned because it wished to make renewal subject to the exclusion of cover for cancer. New India said it was entitled to take this step because it was under no obligation to renew, and could change its terms at renewal.

The plaintiff complained to the insurance ombudsman. In March 2004 the ombudsman ruled that New India should renew the policy on the expiring terms, without a break in cover (so with effect from July 2003), and that it should pay the claims that would have been payable if the policy had been in place since July 2003. New India partially complied with the ruling in that it did issue another policy to the plaintiff, but only with effect from April 2004.

The plaintiff complained to the insurance ombudsman again, which reiterated its ruling of March 2004. New India did not comply with the ruling.

### Decision

The plaintiff filed a writ petition before the Delhi High Court. When asked to explain, New India argued that Section 64VB of the Insurance Act 1938 provides that no risk is to be assumed unless the premium is received

in advance. Premium was not collected in July 2003, so New India could not pay claims for the period of July 2003 to April 2004. It further stated that the insurance ombudsman's jurisdiction is limited, and does not extend to the renewal of health policies as per a circular of March 2004 that had been issued under the ombudsman rules. The insurance ombudsman had therefore exceeded its jurisdiction.

The high court did not specifically comment on the circular, but in more general terms it said that New India's reasons for refusing to implement fully the ombudsman's ruling were "unconvincing and unacceptable". The court held that New India had waived the right to question the insurance ombudsman's jurisdiction having already acted on the award, albeit only in part.

The court also stated that "it is not open to the insurance companies to challenge such award of the insurance ombudsman". The court said that the insurance ombudsman mechanism for the adjudication of disputes was an alternative dispute redressal mechanism that had been devised by insurers and they had "unconditionally bound themselves to honour such awards".

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#### Endnotes

(1) WP (c) no 10638/2006.

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