

WPA 29681 of 2024

Sujata Samanta  
Vs.  
Insurance Ombudsman & Ors.

Mr. Soumalya Ganguly  
Mr. Sujit Samanta  
..... for the petitioner

Mr. Sachin Daga  
Ms. Rashmi Singhee  
..... for the respondents no. 2 & 3

1. The petitioner is aggrieved by an award dated July 9, 2024, passed by the Insurance Ombudsman being Award No. IO/KOL/A/LI/0425/2024-2025.
2. The issue raised by the petitioner herein is that under the Regulations, 2019, issued by the Insurance Regulatory and Development Authority of India, the petitioner is entitled to refund in terms of the Regulations 21 on the surrender value and not otherwise.
3. Mr. Daga, learned Advocate appearing for the respondents no. 2 and 3, has raised a limited issue that the policy, which was taken sometime in 2018, is guided by the Regulations, 2013 and not by the Regulations, 2019. Thus, the Regulations, 2019 cannot be applied

retrospectively and are applicable with prospective effect.

4. I have heard the learned Advocates appearing for the parties. As will appear from the submissions made by the parties and the Regulations, it would be trite that the Regulations, 2019 would have a prospective effect, but for the statement of accounts, at page no. 50 of the writ petition, whereby the authorities themselves have applied Regulation 47(b)(i) of the IRDAI Regulations of 2019 to the policy of the petitioner.
5. This issue has not been considered by the respondent no. 1, while dealing with the matter and he has proceeded mechanically to reject the claim of the petitioner.
6. I, thus, set aside the order of the respondent no. 1 dated July 9, 2024, and direct him to revisit the matter afresh, especially in the light of the admission made by the respondents no. 2 and 3, at page no. 50 of the writ petition, regarding applicability of the IRDAI Regulations, 2019 to the petitioner's case.
7. The petitioner will be entitled to the assistance of a representative and the matter will be decided, in the presence of such representative, by the respondent no. 1, by March 15, 2026, upon given adequate prior notice of hearing to the petitioner.

8. With the aforestated directions, the writ petition is disposed of.
9. There shall, however, be no order as to costs.
10. Parties are act on a serve copy of this order, duly downloaded from the Official Website of this Hon'ble Court.

**(Reetobroto Kumar Mitra, J.)**