Before the Zonal Manager, Life Insurance Corporation of India

An appeal under Regulation 20 of the Life Insurance Corporation of India (Agents) Regulations, 1962

Appellant: Vijay Agarwal

<u>Short notes of submission on behalf of the Appellant</u>

The instant proceedings emanate from a Show Cause Notice dated 20th June, 2006 issued by the Life Insurance Corporation of India ("LIC"), which ultimately culminated in an Order dated 30th September, 2013 passed by the Divisional Manager (In-Charge), Life Insurance Corporation of India. The said Order is the subject matter of challenge in the instant appeal.

The Appellant had relied upon a note on the previous occasion before this Appellate Authority which is enclosed herewith for ready reference and perusal.

Thereafter, on 8th November, 2016, the appeal preferred by the Appellant came to be dismissed. Being aggrieved thereby, the Appellant approached the Hon'ble High Court by way of a writ petition being WPA 23643 of 2026, a copy whereof is annexed hereto ". Pursuant thereto, and upon granting liberty to the Appellant to cross-examine certain witnesses, the Hon'ble High Court, by a further Order dated 25th June, 2026, was pleased to set aside the Order dated 8th November, 2016 and remand the matter for fresh consideration and disposal, inter alia, upon taking into consideration the additional evidence of Dr. Alok Chowdhury.

In the aforesaid circumstances, and pursuant to the directions contained in the Minutes of the Meeting dated 12th September, 2026, the Appellant is filing the instant Note setting out the relevant facts, documents and submissions for consideration by the Appellate Authority.

The findings arrived at by the Disciplinary Authority and the corresponding responses of the Appellant thereto are set out hereinbelow for ease of reference:

Finding (a) (1): That proposal papers for proposing insurance on life of Prosenjit Das, since deceased, were not signed by the life assured Prosenjit Das himself as confirmed by the report of the handwriting expert which forms the basis of contract.

Appellant's response

The Disciplinary Authority could not have legitimately relied upon the report of the handwriting expert without the said report being duly proved by its author. By and under the covering letter dated 5th March, 2013, a copy of the Opinion/Report No.

DXB 30/2006 of the Government Examiner of Questioned Documents, Directorate of Forensic Sciences, Ministry of Home Affairs, Government of India, was forwarded to the Appellant (Annexure “A”, Pages 19–24). The Government Examiner, as part of the said report/opinion, had forwarded the Opinion No. DXB 30/2006 dated 12th July, 2006, together with the documents stamped and marked Q1–Q26, Q19/1, A1–A52 and A-21/1 in 72 sheets, and had specifically informed the Zonal Vigilance Officer that, *“should evidence be necessary in this case, the opinion number or this letter reference be quoted in all correspondences and the summons be got issued in the name of Smt. K. B. Jena, Assistant Government Examiner of Questioned Documents, Kolkata.”*

The Appellant craves leave to refer to and rely upon the aforesaid letter dated 5th March, 2013, together with the Opinion/Report No. DXB 30/2006 enclosed therewith (Annexure “A”, Pages 19–24). The said report itself makes it clear that, if the opinion was sought to be relied upon as evidence, the concerned Government Examiner could be summoned for the purpose.

It is trite that where an expert report or opinion is relied upon by a Tribunal or disciplinary authority, the party seeking to rely upon such opinion must establish the same in accordance with law and, more importantly, the party against whom an adverse finding is sought to be founded upon such opinion must be afforded a meaningful opportunity to challenge and controvert the same, including by examining and cross-examining the author of the report, where necessary.

Significantly, the aforesaid position is borne out even from the report itself, since the Government Examiner, while forwarding the Opinion/Report No. DXB 30/2006, specifically indicated the procedure to be followed in the event evidence was considered necessary, including issuance of summons to Smt. K. B. Jena, Assistant Government Examiner of Questioned Documents, Kolkata.

The alleged report of the Government Examiner of Questioned Documents could not have been relied upon by the Disciplinary Authority without the same being duly proved by the person who had rendered the opinion. The report of the Government Examiner is, in its very nature, an opinion of an expert and its evidentiary relevance is traceable to Section 45 of the Indian Evidence Act, 1872, which merely renders the opinion of a person specially skilled in questions relating to the identity of handwriting a relevant fact. Section 45 does not, by itself, dispense with the requirement of proving the report or establish the truth of the contents thereof. The opinion of an expert is evidence because of the testimony of the expert and the reasons and materials upon which such opinion is founded, and not merely because a document purporting to contain such opinion has been produced before the authority.

Section 67 of the Indian Evidence Act, 1872 assumes particular significance in the present case. The said provision mandates that where a document is alleged to have been signed or written wholly or in part by a particular person, the signature or handwriting alleged to be that of such person must be proved to be in his handwriting. Thus, where the very foundation of the charge against the Appellant is that the signatures appearing on the proposal forms were not those of the deceased Prasenjit Das, the burden was upon LIC, which sought to rely upon such allegation, to establish the same in accordance with law. The Supreme Court has recognised that Section 67 requires the alleged signature or handwriting to be proved and that the ordinary mode of proving such fact may include the evidence of the person who executed or witnessed the document, evidence of a person acquainted with the handwriting, or expert evidence under Section 45.

In the present case, LIC chose to rely upon the Opinion/Report No. DXB 30/2006 dated 12th July, 2006 of the Government Examiner of Questioned Documents. Consequently, if LIC intended to establish, on the strength of the said report, that the signatures appearing on the proposal forms were not those of Prasenjit Das, it was incumbent upon LIC to examine the concerned Government Examiner or the competent author of the report and establish the basis, methodology and conclusion of the opinion, thereby affording the Appellant an effective opportunity to cross-examine the expert and test the correctness of his opinion.

This requirement assumes even greater significance in the present case because the covering communication dated 5th March, 2013, forwarding the said report to the Appellant, itself specifically records that, *“should evidence be necessary in this case, the opinion number or this letter reference be quoted in all correspondences and the summons be got issued in the name of Smt. K. B. Jena, Assistant Government Examiner of Questioned Documents, Kolkata.”* Thus, the report itself contemplated that the concerned Government Examiner could be summoned where evidence was required. The said report, therefore, could not have been treated as self-proving merely by placing it on record.

The position is further reinforced by Section 51 of the Indian Evidence Act, 1872, which makes the grounds upon which an opinion is based relevant where the opinion itself is relevant. Consequently, where reliance is placed upon an expert opinion, the reasons, examination, comparison and materials forming the foundation of such opinion are matters which are capable of being tested. The Appellant was therefore entitled to challenge not merely the ultimate conclusion but also the factual and scientific basis upon which the Government Examiner arrived at such conclusion.

It is submitted that the Disciplinary Authority could not itself convert an unproved expert report into substantive proof of forgery. The report was, at the highest, an opinion within the meaning of Section 45 and not conclusive proof of the fact alleged by LIC. The Supreme Court has repeatedly recognised that handwriting expert evidence is opinion evidence and requires cautious evaluation; the opinion of a handwriting expert is not, by itself, infallible or conclusive.

Section 73 of the Indian Evidence Act, 1872 also does not cure the aforesaid defect. The said provision permits comparison by the Court of a disputed signature or handwriting with a signature or handwriting which is admitted or otherwise proved to the satisfaction of the Court. It does not authorise an unproved expert report to be treated as substantive evidence of the disputed signature. Indeed, the Supreme Court has recognised that the statutory scheme contemplates distinct modes of establishing handwriting, including expert opinion under Section 45, evidence of a person acquainted with the handwriting under Section 47, and comparison by the Court under Section 73.

In the instant case, none of these safeguards was meaningfully complied with. The Government Examiner whose opinion was relied upon was not examined before the Disciplinary Authority; the Appellant was consequently denied the opportunity of cross-examining the expert; the underlying basis of the opinion was not tested in evidence; and the Appellant's contrary case regarding the genuineness of the signatures was not adjudicated upon after a proper examination of competing evidence. The finding of forgery, therefore, rests substantially upon an unproved expert opinion, which could not lawfully have been elevated to the status of conclusive or substantive proof against the Appellant.

The defect is not a mere technicality. The allegation that the Appellant procured policies by forging the signatures of the deceased Prasenjit Das constitutes the very foundation of the charge. Once LIC elected to establish that allegation through the opinion of the Government Examiner, the Appellant was entitled to have the author of that opinion produced for examination and cross-examination. The failure to do so has caused serious prejudice to the Appellant and renders the reliance placed upon the said report legally unsustainable.

This assumes added significance in view of the evidence of Dr. Alok Chowdhury, who has stated that Prasenjit Das had in fact signed the relevant policy forms prior to his death on 10th April, 2004. LIC, despite having the opportunity to cross-examine Dr. Alok Chowdhury, did not confront him with the material proposition that his evidence regarding the signatures of Prasenjit Das was incorrect or that the signatures were forged. The said evidence consequently remained unchallenged. The Appellant therefore submits that the unproved opinion of the Government Examiner could not have been preferred over the direct evidence available on record, particularly when the expert whose opinion was relied upon was never subjected to examination and cross-examination.

Accordingly, the finding that the signatures of Prasenjit Das were forged is liable to be set aside, the report of the Government Examiner not having been duly proved by its author and the Appellant having been denied the fundamental opportunity to test the said expert opinion by cross-examination.

In the circumstances, the finding of the Disciplinary Authority that the proposal papers were not signed by the life assured, Prasenjit Das, insofar as such finding is founded upon the report of the handwriting expert, is erroneous, having been arrived at without the report being duly proved and without affording the Appellant an effective opportunity to test or controvert the opinion of the expert.

Even assuming that the provisions of the Evidence Act do not strictly apply to the disciplinary proceedings, the fundamental principles governing the appreciation of expert evidence cannot be disregarded when an adverse finding is sought to be founded substantially upon an expert opinion. In the present case, this assumes particular significance since the opinion/report itself contemplated that the concerned Government Examiner could be summoned and examined where evidence was necessary.

It is further pertinent to mention that, as would be evident from the evidence of Dr. Alok Chowdhury, he has admitted in his evidence that the deceased Prasenjit Das had, in fact, signed the policy forms on 25th March 2004 , i.e. prior to his date of death on 10th April, 2004. Such admission/evidence goes to the very root of the allegation against the Appellant and completely undermines the case that the Appellant had committed any fraud by forging the signatures of Prasenjit Das.

It is equally significant that during the cross-examination of Dr. Alok Chowdhury, LIC did not confront him with the said finding or challenge the correctness of his evidence that Prasenjit Das had, in fact, signed the policy forms prior to his death. The failure on the part of LIC to confront the witness with the material aspect of his evidence assumes considerable significance, and the Appellant submits that the said evidence must consequently be treated as having remained unchallenged and uncontroverted.

The aforesaid principle is squarely supported by the judgment of the Hon’ble Calcutta High Court in A.E.G. Carapiet v. A.Y. Derderian, reported in AIR 1961 Calcutta 359, particularly paragraph 10, wherein the Hon’ble Court held that where a party fails to put its essential and material case to a witness in cross-examination, it must ordinarily be taken that the testimony of such witness on that aspect has not been disputed. The Hon’ble Court further held that this is not merely a technical rule of evidence but a rule of essential justice, since it ensures that the witness is given notice of the case sought to be made against him and an opportunity to explain or controvert the same, thereby preventing surprise and miscarriage of justice. The principle necessarily requires that if LIC intended to dispute the evidence of Dr. Alok Chowdhury that the deceased Prasenjit Das had signed the policy forms prior to his death, the said material aspect was required to be specifically put to the witness in cross-examination. Having admittedly failed to do so, LIC cannot now seek to impeach or discredit the said evidence at a subsequent stage, particularly when the witness was available for cross-examination and the opportunity to challenge his testimony was expressly available. The material evidence of Dr. Alok Chowdhury, therefore, remained unchallenged and uncontroverted, and ought to be given due evidentiary weight in determining whether the allegation of forgery against the Appellant can at all be sustained

Finding (a) (ii):

Moreover no deposit i.e. consideration money was made in the name of the proposer Prosenjit Das (Deed) rather all the policies were adjusted against a proposal deposit vide BOC No. 11657 dated 1/02/2004 in the name of Sri R. L. Gupta.

Appellant's response

Though it is factually correct that no initial deposit was made by the assured, Prasenjit Das, and that the premium towards the policy proposed by him was paid by way of transfer/adjustment from the deposit standing in the name of R. L. Gupta, it is submitted that, insofar as LIC is concerned, the Corporation had admittedly received the full amount towards the policy undertaken by Prasenjit Das.

The Appellant, being the agent of R. L. Gupta as well, is aware and states that subsequently a further deposit was made towards the policy of R. L. Gupta so as to make good the shortfall occasioned by the transfer/adjustment of the amount towards the policy of Prasenjit Das.

In any event, at the stage of verification of the proposal and prior to its final acceptance and issuance of the policy, the authorities of LIC were fully aware of the manner in which the premium had been paid. The Proposal Review Slip (Annexure "B", Pages 25–26) clearly records that the money towards the premium in respect of the proposal submitted by Prasenjit Das had been paid by way of transfer/adjustment from the deposit standing in the name of another policyholder, namely, R. L. Gupta. The said transaction was accordingly within the specific knowledge of LIC, was verified by its authorities and was found to be in order. Thereafter, LIC proceeded to accept the proposal and issue the policy without raising any objection whatsoever on the ground that the premium had not been deposited directly by the policyholder himself.

Having thus had full knowledge of the manner in which the premium was paid, having verified the same and having thereafter accepted the proposal and issued the policy without any objection, LIC is estopped from subsequently seeking to rely upon the very same circumstance as a ground of misconduct against the Appellant.

The objection now sought to be raised by LIC at this belated stage is, therefore, wholly misconceived and irrelevant, particularly when the policy had already been duly accepted and issued by the Corporation with full knowledge of the manner in which the premium had been adjusted. The Disciplinary Authority consequently erred in treating the said circumstance as a ground for imposing penalty upon the Appellant, when the contemporaneous records themselves demonstrate that LIC was aware that the premium had been paid by way of adjustment from the account of another policyholder and, despite such knowledge, had verified and accepted the proposal and proceeded to issue the policy. The subsequent attempt to characterise the very same disclosed and accepted transaction as misconduct is therefore unsustainable.

Finding – (b)

Appellant's response

Therefore, once the proposal had been accepted and the policies had been issued by LIC, the Appellant could not, at this stage, be penalised on the basis of the manner in which the premium had been deposited.

It is relevant to note that the Life Assured, Prasenjit Das, died on 10th April, 2004, whereas the date of registration of the proposal is stated to be 16th April, 2004, although the proposal itself was dated 25th March, 2004. The Appellant submits that the said subsequent date of registration cannot be treated as the date of acceptance of the proposal, particularly when the contemporaneous documents maintained and issued by LIC demonstrate otherwise.

All the proposals had, in fact, resulted in the respective policies being accepted on 31st March, 2004, as is evident from the Premium Receipts issued by LIC, each of which bears the respective individual policy number (Annexure "C", Pages 27–32). The date of acceptance of the proposal is clearly reflected in the said Premium Receipts as 31st March, 2004. The issuance of the Premium Receipts dated 31st March, 2004, bearing the respective policy numbers, clearly establishes that the proposals, as per the particulars contained therein, had been accepted by the Corporation on 31st March, 2004.

The said First Premium Receipts also form part of Annexure "P" to the writ petition.

Significantly, even the Policy Review Sheet records the registration date as 31st March, 2004. A copy of the said Policy Review Sheet is annexed hereto and marked as Annexure "B", Pages 25–26. Although the Review Sheets appear to have been prepared on 16th April, 2004, the date on which the Review Sheets were prepared cannot, by itself, be treated as the date of registration or acceptance of the proposals, particularly when the registration date recorded therein is 31st March, 2004.

The position is further corroborated by the fact that LIC had issued the Premium Receipts in respect of all the policies on 31st March, 2004, thereby evidencing acceptance of the proposals, and had simultaneously allotted the respective policy numbers on the said date, as is apparent from the Premium Receipts (Annexure “C”, Pages 27–32).

Accordingly, the subsequent reference to 16th April, 2004 as the date of registration cannot override the contemporaneous documents emanating from LIC itself, which establish that the proposals had already been accepted and the respective policy numbers allotted on 31st March, 2004. The finding of the Disciplinary Authority proceeding on the basis that the proposals came to be registered only on 16th April, 2004 is therefore contrary to the documentary evidence available on record.

Finding – (c) and (d):

Reliance has been placed on the letter dated 7th January, 2005 issued by the Director of Medilink Healthcare Centre to show that the investigation was done on 13th April, 2004 and reports delivered on 15th April, 2004, after the death of Prasenjit Das on 10th April, 2004 and on such basis, it has been concluded that Prasenjit Das has not at all been examined as claimed by the appellant.

Finding (c) and (d): Medical Examination and the Evidence on Record

In arriving at the aforesaid conclusion, the Disciplinary Authority has failed to take into consideration material documents which were already available on record and which directly bear upon the question as to whether the deceased Prasenjit Das had in fact been medically examined prior to his death.

The following documents, in particular, have not been properly considered:

(a) The Medical Report of the assured, duly certified by Dr. Aloke Kumar Chowdhury on 25th March, 2004 (Annexure “D”, Pages 33–35). The significance of the said document is further reinforced by the subsequent evidence of Dr. Aloke Chowdhury, wherein he has accepted that Prasenjit Das had endorsed/signed the policy forms.

(b) The Medical Examination Confidential Report dated 25th March, 2004, signed by Dr. Aloke Kumar Chowdhury and Dr. Debjit Chatterjee (Annexure “E”, Pages 36–37), the contents and authenticity of which were also confirmed by Dr. Aloke Chowdhury in his evidence.

(c) The Report dated 12th March, 2004 of Medilink Healthcare Centre Private Limited, issued by Prof. C. R. Ghose (Annexure “F”, Pages 38–40).

It is significant that the aforesaid medical documents contain endorsements evidencing that the assured had been examined. The Appellant has also relied upon the certificates dated 21st September, 2013 issued by Dr. Aloke Kumar Chowdhury and Dr. Chitta Ranjan Ghosh (Annexure “G”, Pages 41–44).

It is further pertinent that all the doctors who had examined the assured were empanelled doctors of LIC. The endorsements, signatures and reports of the said empanelled doctors have never been disputed or contradicted by LIC. In particular, at no point of time has LIC challenged the genuineness of the medical reports dated 25th March, 2004, or the letters/certificates subsequently issued by Dr. Aloke Kumar Chowdhury confirming the examination of the assured.

In the aforesaid circumstances, the subsequent letter dated 7th January, 2005 issued by the Director of Medilink Healthcare Centre Private Limited (Page ___) is of no assistance to LIC. The doctor who had signed the said letter was not the person who had personally drawn the blood sample from the patient. The said letter, therefore, could not have been preferred over the contemporaneous medical and pathological records without properly examining the circumstances in which the subsequent letter came to be issued.

The Appellant further submits that the said letter dated 7th January, 2005 is a procured document and cannot safely be relied upon, particularly when the contents thereof are inherently inconsistent with the contemporaneous medical records. The said letter proceeds on the basis that the ECG and other medical examinations of Prasenjit Das were conducted on 13th April, 2004, whereas Prasenjit Das had admittedly died on 10th April, 2004.

The inherent falsity and impossibility of the said assertion is therefore apparent. No medical examination, ECG or collection of blood sample could have been conducted upon Prasenjit Das on 13th April, 2004, when he had already died on 10th April, 2004. The subsequent letter, therefore, cannot be permitted to displace the contemporaneous medical records merely on the basis of a bald assertion contained therein.

Significantly, the Pathological Report of Medilink Healthcare Centre Private Limited dated 12th March, 2004 (Annexure “F”, Pages 38–40) records both the date of collection and the date of report as 12th March, 2004. The said contemporaneous report is wholly inconsistent with the subsequent letter dated 7th January, 2005 issued by Dr. D. Biswas (Annexure “G”, Page 45). The latter document therefore directly contradicts the original pathological report dated 12th March, 2004.

It is also significant that Prof. Dr. Chitta Ranjan Ghosh has signed the report dated 12th March, 2004, thereby certifying the contents thereof (Pages 38–40). The said contemporaneous report, duly signed by the concerned doctor, cannot be disregarded in favour of a subsequent document which proceeds on an assertion that is ex facie inconsistent with the admitted date of death of the assured.

It was, therefore, not open to LIC to mechanically or blindly rely upon the letter dated 7th January, 2005 issued by Dr. P. Biswas, particularly when the same contradicts the original pathological report dated 12th March, 2004. The Disciplinary Authority could not, on the strength of the subsequent letter alone, have concluded that the assured was never medically examined, when there are several contemporaneous documents, duly signed by different doctors who were empanelled doctors of LIC, evidencing that the assured had been examined prior to his death.

It is further pertinent to mention that at no point of time have the letters issued by Dr. Alok Chowdhury, or the medical reports dated 25th March, 2004, been contradicted or disproved by LIC. On the contrary, Dr. Alok Chowdhury has subsequently entered the witness box and his evidence materially supports the Appellant’s case, including his acceptance that Prasenjit Das had endorsed his signature on the policy forms. Such evidence assumes particular significance when considered alongside the contemporaneous medical records.

Finding: Handwriting Expert’s Report and Appellant’s Response

The Disciplinary Authority has rejected the report of the handwriting expert, Mr. Puroshattom Chatterjee, without assigning any cogent or sustainable basis for such rejection (Annexure “I”, Pages 46–47).

The Disciplinary Authority, namely the Divisional Manager (In-Charge), was not himself a handwriting expert and, in the absence of any contrary expert opinion, could not have simply substituted his own assessment for the technical opinion furnished by Mr. Puroshattom Chatterjee. If the Disciplinary Authority intended to reject the opinion of the handwriting expert, the same ought to have been tested against the evidence and material forming the basis of such opinion and, where necessary, against a duly established contrary expert opinion.

If the Disciplinary Authority ultimately intended to arrive at a finding regarding the genuineness or otherwise of the signatures of the assured, the proper course was first to permit LIC to prove the report of the Government Examiner of Questioned Documents (“GEQD”) by examining the concerned expert and thereafter afford the Appellant an effective opportunity to cross-examine the author of the said report and challenge the basis and conclusion thereof. Conversely, if LIC sought to dispute the opinion of Mr. Puroshattom Chatterjee, it ought to have been afforded an opportunity to cross-examine him on the basis of the GEQD report and the competing expert evidence. Only thereafter could the competing opinions properly be assessed to determine which, if either, was worthy of acceptance.

The Disciplinary Authority could not, however, reject the report of Mr. Puroshattom Chatterjee merely by adopting its own conclusion, without the competing expert evidence being properly tested.

In any event, having regard to the uncontroverted evidence of several empanelled doctors of LIC, certifying that Prasenjit Das had been medically examined by them and/or in their presence, the entire foundation for drawing an adverse inference against the Appellant on the basis of the alleged subsequent medical examination becomes unsustainable. The contemporaneous medical records, read with the evidence of Dr. Alok Chowdhury, materially support the Appellant’s case.

LIC’s Contentions and the Appellant’s Response

1. **LIC Contention:** The report of the handwriting expert has not been controverted and, therefore, cannot be questioned at this stage.

Reply: The contention is fallacious. The report of the handwriting expert, particularly the report of the GEQD upon which LIC seeks to rely, was required to be duly proved by the person competent to establish the same. Without the concerned expert being summoned and the report being properly tendered and proved, the contents and conclusions thereof could not simply be treated as established evidence against the Appellant. The Appellant was entitled to test the opinion by cross-examining its author.

Moreover, in view of the subsequent evidence of Dr. Alok Chowdhury, which constitutes direct evidence regarding the relevant events and wherein he has accepted that Prasenjit Das had endorsed his signature on the policy forms, the alleged expert opinion cannot mechanically be treated as conclusive. The Appellant craves leave to rely upon the applicable principles governing primary and secondary evidence and the evidentiary value of expert opinion.

is further submitted that the opinion of a handwriting expert is, by its very nature, **opinion evidence** and cannot be treated as conclusive proof of the identity or authorship of a disputed signature. The science of identification of handwriting is not an exact or infallible science and, unlike fingerprint identification, carries an inherent possibility of error. The Hon’ble Supreme Court has consistently recognised the imperfect nature of the science of handwriting identification and has consequently required Courts and adjudicating authorities to approach such evidence with **great care and caution**. The reasons forming the basis of the expert’s opinion must be carefully examined and tested against the other evidence available on record.

In **Murari Lal v. State of Madhya Pradesh, (1980) 1 SCC 704**, the Hon’ble Supreme Court, while explaining the proper approach to handwriting-expert evidence, held that having regard to the imperfect nature of the science of identification of handwriting, the approach must necessarily be one of caution; the reasons for the opinion must be carefully probed and examined and all other relevant evidence must be taken into consideration. The Court further recognised that, in an appropriate case, corroboration may be sought and that the ultimate question is one of the **testimonial weight** to be attached to the expert’s opinion.

The same principle has been reiterated in **Om Prakash Narang v. Central Bureau of Investigation**, wherein it has been recognised that, unlike fingerprint science, handwriting comparison is not an exact science and that the opinion of a handwriting expert must therefore be received with great caution. The Court referred to the settled principle that it is unsafe to base a finding of guilt solely upon handwriting-expert opinion unless the same derives support from other cogent and convincing evidence.

The principle is of particular relevance in the present case. The GEQD opinion relied upon by LIC cannot be treated as an infallible determination that the signatures appearing on the proposal forms were not those of **Prasenjit Das**. At the highest, the report constitutes an expert opinion which was required to be evaluated in the context of the entirety of the evidence. The Disciplinary Authority was therefore required to examine the basis and reasons for the GEQD opinion, the admitted and disputed writings used for comparison, the competence of the expert, and the surrounding and contemporaneous evidence before arriving at an adverse conclusion.

This assumes even greater significance because there is **positive and independent evidence which materially contradicts the conclusion sought to be drawn from the handwriting opinion**. In particular, the evidence of **Dr. Alok Chowdhury**, who has accepted that Prasenjit Das had endorsed/signed the relevant policy forms prior to his death on 10th April, 2004, directly bears upon the question of the genuineness of the signatures. The said evidence was not effectively challenged by LIC in cross-examination. Thus, the present case is not one where the handwriting opinion stands in isolation without any contrary material; rather, there is substantive evidence on record which creates a serious and material doubt regarding the correctness of the expert conclusion.

The Supreme Court has also made it clear that the fact that there is no absolute rule requiring corroboration in every case does not mean that an expert opinion must be accepted without scrutiny. The **quality of the opinion depends upon the soundness of the reasons and material upon which it is founded**, and the adjudicating authority must consider all other relevant evidence before attaching weight to it.

Consequently, the GEQD report could not have been treated by the Disciplinary Authority as conclusive or determinative of the allegation of forgery, particularly when the report was disputed, the author of the report was not examined and subjected to cross-examination, and there was other material evidence inconsistent with the conclusion sought to be drawn from the report. The finding of forgery, insofar as it rests substantially or solely upon such handwriting opinion, is therefore unsafe and unsustainable.

In the facts of the present case, the caution mandated by the aforesaid authorities assumes still greater significance because the handwriting opinion is not supported by the surrounding evidence; rather, it is contradicted by material evidence on record. The contemporaneous medical records, the evidence of the empanelled doctors of LIC and, most importantly, the evidence of Dr. Alok Chowdhury regarding the signature of Prasenjit Das constitute circumstances which required the Disciplinary Authority to exercise the highest degree of caution before accepting the GEQD opinion. The Disciplinary Authority, however, proceeded to treat the expert opinion as virtually conclusive, without examining the expert, without testing the reasons underlying the opinion and without reconciling the opinion with the contrary evidence available on record. Such an approach defeats the very safeguard of caution mandated by the Supreme Court in cases involving handwriting expertise and renders the resultant finding vulnerable to interference.

Reliance is placed on 2025(4) SCC 487 (copy enclosed)

2. **LIC Contention**: Oath was not administered under the Oaths Act and, therefore, the evidence of Dr. Alok Chowdhury cannot be looked into.

Reply: The contention is legally misconceived. The provisions of the Oaths Act cannot be invoked to discard otherwise relevant evidence in the manner suggested by LIC. In any event, if the Appellate Authority considered administration of oath to be necessary for the purpose of recording the evidence, the same was a matter within the control of the authority before whom the evidence was being recorded. The Appellant cannot be faulted for any alleged omission in that regard and LIC cannot derive any advantage from such procedural objection to disregard the substantive evidence of Dr. Alok Chowdhury.

3. **LIC Contention:** The deceased, Prasenjit Das, was himself an LIC agent, which fact had not been disclosed.

Reply: The said contention is of no consequence to the issue under consideration. LIC has not demonstrated how the status of Prasenjit Das as an LIC agent establishes any misconduct on the part of the Appellant. Significantly, it is not even the case of LIC that the agency of the Appellant was terminated or that the impugned action was founded upon the fact that Prasenjit Das was himself an LIC agent. The said circumstance, therefore, has no bearing upon the charges against the Appellant.

4. **LIC Contention:** The nominee of Prasenjit Das was neither his parents nor his siblings but his distant cousin.

Reply: This contention is equally irrelevant and has no bearing upon the validity of the policies or the alleged misconduct of the Appellant. An insured is legally entitled to nominate a person of his choice, subject to the applicable statutory provisions.

There is no basis to draw an adverse inference merely because the nominee happened to be a distant cousin of the deceased. The identity or relationship of the nominee, by itself, does not establish either forgery, fraud or misconduct on the part of the Appellant.

In view of the aforesaid facts, documents and evidence, and particularly the contemporaneous medical records at Annexures “D”, “E” and “F” (Pages 33–40), the certificates at Annexure “G” (Pages 41–44), the report of the handwriting expert at Annexure “I” (Pages 46–47), and the subsequent evidence of Dr. Alok Chowdhury, it is submitted that the findings arrived at by the Disciplinary Authority suffer from material inconsistencies and disregard of relevant and uncontroverted evidence.

The subsequent letter dated 7th January, 2005 cannot displace the contemporaneous medical records, particularly when the said letter records a medical examination allegedly conducted after the admitted death of Prasenjit Das on 10th April, 2004. Equally, the handwriting opinion relied upon by LIC could not have been treated as conclusive without being duly proved and tested in accordance with the principles of evidence.

In view of the facts, documents and evidence referred to hereinabove, it is respectfully submitted that the findings recorded by the Disciplinary Authority cannot be sustained either on the basis of the contemporaneous documentary evidence or on the basis of the evidence subsequently brought on record pursuant to the directions of the Hon’ble High Court.

At the very outset, the allegation that the signatures appearing on the proposal forms were not those of the deceased Prasenjit Das rests substantially upon the opinion of the Government Examiner of Questioned Documents. The said opinion, however, was never duly proved through its author, nor was the Appellant afforded an effective opportunity to cross-examine the concerned expert and test the basis, methodology and conclusions of the said opinion. The report itself contemplated that the concerned Assistant Government Examiner could be summoned if evidence was necessary. In such circumstances, an unproved expert opinion could not have been elevated to the status of conclusive proof of forgery and made the foundation of an adverse finding against the Appellant.

The said allegation is rendered even more doubtful in view of the subsequent evidence of Dr. Alok Kumar Chowdhury, who has accepted that Prasenjit Das had endorsed/signed the policy forms prior to his death on 10th April, 2004. Significantly, LIC had the full opportunity to confront Dr. Alok Chowdhury on this material aspect during cross-examination, but no such challenge was put to him. The said evidence has, consequently, remained uncontroverted. The principle enunciated by the Hon’ble Calcutta High Court in A.E.G. Carapiet v. A.Y. Derderian, AIR 1961 Calcutta 359, particularly paragraph 10, assumes significance in this context, since a material proposition which is not put to a witness in cross-examination cannot ordinarily be permitted to be subsequently disputed.

The medical evidence independently and materially corroborates the Appellant's case. The Medical Report dated 25th March, 2004 certified by Dr. Aloke Kumar Chowdhury (Annexure "D", Pages 33–35), the Medical Examination Confidential Report dated 25th March, 2004 signed by Dr. Aloke Kumar Chowdhury and Dr. Debjit Chatterjee (Annexure "E", Pages 36–37), and the Medilink Healthcare Centre report dated 12th March, 2004 issued by Prof. C. R. Ghose (Annexure "F", Pages 38–40) constitute contemporaneous records preceding the death of Prasenjit Das. The certificates subsequently issued by Dr. Aloke Kumar Chowdhury and Dr. Chitta Ranjan Ghosh dated 21st September, 2013 (Annexure "G", Pages 41–44) further support the existence and authenticity of the medical examination.

The contemporaneous pathological report dated 12th March, 2004 is of particular importance, since it records the collection date as well as the report date as 12th March, 2004. The said report is also signed by Prof. Dr. Chitta Ranjan Ghosh (Pages 38–40). The subsequent letter dated 7th January, 2005, relied upon by LIC, which proceeds on the basis of medical investigations/ECG allegedly having been conducted on 13th April, 2004, is ex facie inconsistent with the admitted fact that Prasenjit Das had died on 10th April, 2004. A medical examination or ECG of the deceased on 13th April, 2004 is inherently impossible. The subsequent letter, therefore, could not have been mechanically preferred over the contemporaneous records without a proper examination of the circumstances in which such letter came to be issued and without reconciling the patent contradiction.

It is equally material that none of the contemporaneous medical reports, endorsements or signatures of the empanelled doctors of LIC has been disproved or contradicted by LIC. There is no finding based upon any properly established evidence that the signatures of the doctors appearing on the medical records are fabricated or that the medical reports dated 12th March, 2004 and 25th March, 2004 are not genuine. The existence of these documents, coupled with the evidence of Dr. Alok Chowdhury, therefore constitutes a substantial and consistent evidentiary chain in favour of the Appellant.

The allegation concerning payment of premium is also incapable of sustaining the penalty. It may be factually correct that the initial deposit towards the policy of Prasenjit Das was adjusted from the deposit standing in the name of R. L. Gupta. However, LIC had full knowledge of the said adjustment at the stage of scrutiny and verification of the proposal. The Proposal Review Slip (Annexure "B", Pages 25–26) records the relevant transaction, and despite such knowledge LIC proceeded to accept the proposal and issue the policy. The subsequent attempt to treat the same transaction as misconduct, after LIC had itself verified and accepted it, is therefore wholly inconsistent with the Corporation's own contemporaneous conduct.

Similarly, the documentary record concerning the date of acceptance of the proposals materially contradicts the basis upon which an adverse inference has been drawn. The Premium Receipts dated 31st March, 2004, bearing the respective policy numbers (Annexure “C”, Pages 27–32), demonstrate that the proposals had been accepted and the policy numbers allotted on that date. The Policy Review Sheet (Annexure “B”, Pages 25–26) also records the registration date as 31st March, 2004. The fact that the Review Sheets appear to have been prepared on 16th April, 2004 cannot, by itself, convert that date into the date of acceptance or registration when LIC’s own contemporaneous documents record 31st March, 2004.

The various additional circumstances sought to be relied upon by LIC, namely that Prasenjit Das was himself an LIC agent or that the nominee was a distant cousin rather than a parent or sibling, do not advance the case against the Appellant. Neither circumstance, in the absence of further evidence establishing fraud or misconduct, has any rational nexus with the allegation that the Appellant forged the signatures of the deceased or procured issuance of the policies by fraudulent means.

Viewed cumulatively, therefore, the case against the Appellant suffers from a fundamental evidentiary infirmity. The Disciplinary Authority has relied upon a subsequent and inherently questionable document while disregarding contemporaneous medical records; has relied upon an expert handwriting opinion without the author of the opinion being examined and without affording the Appellant an opportunity to test the same; has rejected the Appellant’s handwriting expert’s opinion without any demonstrated expert basis; and has failed to accord due weight to the subsequent evidence of Dr. Alok Chowdhury, which remained uncontroverted on the material issue concerning the signatures of Prasenjit Das.

The Appellant respectfully submits that disciplinary proceedings cannot be sustained merely on suspicion, conjecture or on an isolated document which is contradicted by contemporaneous records. Where the contemporaneous documents emanating from LIC itself, the evidence of its empanelled doctors and the subsequent evidence recorded pursuant to the directions of the Hon’ble High Court point in a consistent direction, an adverse finding cannot be sustained by selectively relying upon one subsequent document or an unproved expert opinion while ignoring the remaining evidence.

The Appellant further submits that the present case is not one where the evidence merely admits of two possible views. The very documents relied upon by LIC disclose material inconsistencies which go to the root of the charges. The allegation of forgery is sought to be founded upon an expert opinion which was not properly proved; the allegation regarding non-examination is contradicted by contemporaneous medical records; the subsequent medical letter relied upon by LIC contains an assertion of an examination after the death of the assured; and the evidence of Dr. Alok Chowdhury, who had the relevant contemporaneous knowledge, remained unshaken in material particulars.

In the circumstances, the Appellant respectfully submits that the charges and findings cannot be said to have been established on the material available on record. The benefit of the material inconsistencies, the unproved nature of the GEQD opinion, the uncontroverted evidence of Dr. Alok Chowdhury, the contemporaneous medical records and the conduct of LIC in accepting and issuing the policies must necessarily enure to the benefit of the Appellant.

Accordingly, the Appellant most respectfully prays that the findings recorded by the Disciplinary Authority be set aside; the allegations and charges against the Appellant be held not to have been established; the Order dated 30th September, 2013 be quashed and set aside; and the penalty imposed upon the Appellant be withdrawn in its entirety, with all consequential benefits flowing therefrom. The appeal may accordingly be allowed and the Appellant be absolved of all allegations of misconduct arising out of the policies of Prasenjit Das.