

PROCEEDINGS BEFORE - THE INSURANCE OMBUDSMAN, STATE OF M.P. & C.G.
(UNDER RULE NO: 16(1)/17 OF THE INSURANCE OMBUDSMAN RULE 2017)
OMBUDSMAN – G S SHRIVASTAVA

Mr.Naseem Khan.....Complainant

V/s

The New India Assurance Co. Ltd.....Respondent

COMPLAINT NO: BHP-G-049-2021-0070 ORDER NO: IO/BHP/A/GI/0017/2020-21

1.	Name & Address of the Complainant	Mr. Naseem Khan H.No-240, Housing Board, Karond Bhopal M.P
2.	Policy No: Type of Policy Duration of policy/Policy period	12220031190150006900 Commercial Vehicle Package Policy 17.04.2019 to 16.04.2020
3.	Name of the insured Name of the policyholder	Mr. Naseem Khan As above
4.	Name of the insurer	The New India Assurance Co. Ltd
5.	Date of Repudiation/ Rejection	17.07.2020
6.	Reason for Repudiation/ Rejection	Vehicle's damage does not correlate with cause of loss narrated in claim form
7.	Date of receipt of the Complaint	18.12.2020
8.	Nature of complaint	Repudiation of claim
9.	Amount of Claim	Rs.1,47,030/- (As per Estimate)
10.	Date of Partial Settlement	NIL
11.	Amount of relief sought	Rs. 85,000/-
12.	Complaint registered under Rule	Rule No. 13(1)(b) Ins. Ombudsman Rule 2017
13.	Date of hearing/place	On 02.02.2021 Bhopal
14.	Representation at the hearing	
	• For the Complainant	Mr Naseem Khan over Go To Meeting App
	• For the insurer	Ms Suganpriya G K, Dy Manager over Go To Meeting App
15.	Complaint how disposed	Dismissed
16.	Date of Award/Order	02.02.2021

- Mr. Naseem Khan (Complainant) has filed a complaint against the New India Assurance Co. Ltd (Respondent) alleging repudiation of the claim.
- **Brief facts of the Case –**
 - **Contention of the complainant** :- The Complainant has stated that his vehicle MP-04-LD-3714 met with accident on 12.02.2020 at 4 am which was insured with respondent vide Pol No-12220031190150006900. While filling the claim form for survey he has written the cause of accident as updated by Driver. The Driver had informed the cause stating that the vehicle first dashed with a truck, after that just to save the cow it got damaged with culvert. In the claim form he has not mentioned the truck by mistake. For that he has submitted a letter vide dated 11.09.2020 to respondent's Regional Office. But they did not respond. On 26.11.2020 on personal inquiry the respondent denied to pay the claim.
 - **Contention of respondent-** The respondent in their SCN have stated that a Policy no.12220031190150006900 was issued to insured covering his TATA ACE XL BS IV vide No. MP04LD3714 w.e.f. 17.04.2019 to 16.04.2020. The vehicle met with an accident on

12.02.2020 as stated in claim intimation form and claim form the cause of accident was mentioned as "suddenly a cow came in front of the vehicle and in the process of saving the animal, the insured vehicle got unbalanced and dashed against a culvert thus, causing damages to the vehicle". The NCR reported vide NCR no. 0166/2020 dated 12.02.2020 PS Vidisha Dehat also substantiates the same cause of loss. Mr. Vivek Kak was deputed to survey and assess the loss on 24.02.2020. On 26.02.2020, we have received a mail from the surveyor stating that, "On physical inspection of the vehicle, it appears that the subject vehicle has met with another vehicle while crossing i.e. the cause of loss differs from the actual damages on the vehicle." The claim intimation and claim form is a basic document for any claim's admissibility. The cause of accident was investigated. On 01st Jul 2020, on receipt of the survey report the file was processed and found contradictory to the statement of the surveyor mailed on 26.02.2020 and report dtd.26.06.2020. When the same was prompted to Mr. Vivek Kak, immediately, the surveyor has regretted and replied by accepting his error and once again confirmed that the "Physical damages to the vehicle do not correlate with the cause of loss narrated by the insured in the claim form". Based on the surveyor's mail, we have "repudiated" the claim under intimation to the insured. As the intimation was given by the insured on 19.02.2020 along with estimate, the spot survey could not be arranged for the same and as a result, they could not conclude whether the vehicle was overloaded at the time of mishap. They have further stated that the claim form is not mentioning about the involvement of any third party vehicle which is known to them only on representation made by the insured to Ombudsman. If the same has been mentioned in the claim form they would have investigated the case and ascertained the exact cause of loss. Principle of Utmost Good Faith permits the insurer to deny the claim. The claim is repudiated based on the violation of basic Principle of Utmost Good Faith and if in case of a concealment of facts by the insured then entails the insurer to forfeit the claim.

- The Complainant has filed complaint letter, Annex. VIA and correspondence with respondent while respondent have filed SCN with enclosures.
- I have heard both parties over Go To Meeting App at length and perused paper filed on behalf of the complainant as well as the Insurance Company.
- **Observation and Conclusion:** A claim under above policy was filed by the complainant as his vehicle No.MP04-LD-3714 met with an accident on 12.02.2020 which was repudiated by the respondent stating that the physical damages on the vehicle do not correlate to cause of loss narrated in claim form. In SCN, respondent have also stated that claim is also repudiated based on violation of basic Principle of Utmost Good Faith and concealment of facts stating that claim form is not mentioning about the involvement of any third party vehicle which was known to them from the complaint made by the insured to this forum. Application for deputation of surveyor for assessment of loss / claim intimation dated 19.02.2020 filed by the complainant reveals that "suddenly a cow came in front of the vehicle and in order to save the animal, the insured vehicle got unbalanced and dashed against a culvert". Complaint made to this forum reveals that the insured vehicle first collided with a truck, in order to save the cow / animal vehicle dashed against a culvert and got damaged. In claim intimation form / application for deputation of surveyor for assessment of loss complainant had not mentioned that his vehicle first got collided with a truck while in the complaint, the same has been mentioned. In FIR / NCR also, complainant had not mentioned about involvement of third party vehicle i.e. truck. Complainant has accepted that by mistake he had not mentioned about the truck. Involvement of third party vehicle is a vital / material fact which was concealed by the complainant and against his declaration. Damages on vehicle will not

correlate with the loss narrated in claim form had the complainant not informed about collision of his vehicle with a truck first.

- In view of above facts and circumstances, repudiation by the respondent is in order and needs no interference by this forum. In the result, complaint is liable to be dismissed.

•

AWARD

The complaint filed by Mr Naseem Khan stands dismissed herewith.

• L

et copies of the order be given to both the parties.

Dated : Feb 02, 2021

(G.S.Shrivastava)

Place : Bhopal

Insurance Ombudsman

OMBUDSMAN – G S SHRIVASTAVA

Mr.Hari Shankar Belwanshi.....Complainant

V/s

The National Insurance Co. Ltd.Respondent

COMPLAINT NO: BHP-G-048-2021-0093 ORDER NO: IO/BHP/A/GI/0021/2020-2021

1.	Name & Address of the Complainant	Mr.Hari Shankar Belwanshi S- 29, Rajharsh Colony, KeweriNagar,DanishKunj, Kolar Road, Bhopal - 462042
2.	Policy No: Type of Policy Duration of policy/Policy period	321301312010000301 Goods Carrying Vehicle (Package) 15.05.2020 to 14.05.2021
3.	Name of the insured Name of the policyholder	Mr.Hari Shankar Belwanshi Mr.Hari Shankar Belwanshi
4.	Name of the insurer	The National Insurance Co. Ltd.
5.	Date of Repudiation/ Rejection	24.12.2020
6.	Reason for Repudiation/ Rejection	The vehicle was carrying excess load of goods than the standard laden capacity
7.	Date of receipt of the Complaint	12.01.2021
8.	Nature of complaint	Repudiation of claim
9.	Amount of Claim	Rs. 1,16,037/-
10.	Date of Partial Settlement	--
11.	Amount of relief sought	Rs. 1,16,037/-
12.	Complaint registered under Rule	Rule No. 13(1)(b) Ins. Ombudsman Rule 2017
13.	Date of hearing/place	On 04.02.2021 at Bhopal
14.	Representation at the hearing	
	<ul style="list-style-type: none">• For the Complainant	Mr Harishankar Belwanshi over Go To Meeting App
	<ul style="list-style-type: none">• For the insurer	Mr Sanjay Galgate, Assistant Manager over Go To Meeting App
15.	Complaint how disposed	Dismissed
16.	Date of Award/Order	04.02.2021

- Mr. HariShankar Belwanshi(Complainant) has filed a complaint against The National Insurance Co. Ltd (Respondent) alleging repudiation of his Motor claim.
- **Brief facts of the Case –**
 - **Contention of the complainant** –The Complainant has stated that he purchased above policy on 15.05.2020 for loss of theft / accident etc. from the respondent Company for his TATA 407, Vehicle No. MP04-GB-3752. The policy no. is 321301312010000301 is valid upto midnight of 14.05.2021. On 23.07.2020 after loading goods of M/s. S J Floor Pvt. Ltd, Indore while coming to Bhopal, between Gram Lasudia and Gadrahedi suddenly the vehicle's front tyre got punctured due to which the vehicle got unbalanced and in order to save the opposite coming vehicle it hit a tree and the cabin of the vehicle got damaged. No one was injured in the accident. The driver of the vehicle lodged a written complaint at Police Choki, Amlaha, P.S,Ashta District, Sehore and the information regarding the accident was also given to the Insurance Company. The Insurance Company on receiving the information deputed a surveyor to the accident site. The surveyor inspected the accident site and the accidental vehicle as per the procedure and submitted the surveyor report to the Insurance Company. No information about the survey report was given to the complainant. Due to the above reason the complainant was assured and got his accidental vehicle repaired from M/s. Sanghi Brothers (Indore) Pvt. Ltd. for which an amount of Rs. 1,16,037/- was incurred and the amount was paid by him. Claim was lodged with the Insurance Company for getting the amount of repair incurred for the repair of the vehicle but the Insurance Company based on false and untrue facts stated that the vehicle was loaded with excess weight than its permitted capacity and repudiated the claim. A letter dated 14.12.2020 was given to him stating that at the time of accident 6523.9 kg of weight was loaded in the vehicle and asked him to submit his clarification within 15 days so that claim may be processed. The clarification was submitted to the Insurance Company. The truth is that the on the day of the accident of the vehicle - as per the information of the seller, the vehicle was being used with a load of total 3350 kg of goods, which was as per the load capacity of vehicle. Whereas the weight of the goods as claimed by the Company is based on untrue and false facts and is based on the false report prepared by surveyor because the surveyor has evaluated the weight in his personal capacity and is not based on any weight of the goods done by any weight measuring agency. The surveyor should have weighed the goods loaded in the vehicle in his presence in a weighing agency but the same was not done. The insurance Company is trying to get absolved of its liability on pretext of false facts.
 - **Contention of respondent**-The respondent in their SCN have stated that the subject claim had been repudiated on the grounds of overloading of goods, beyond permissible limits, which is a violation of the Section 79/80 of Central Motor Vehicles Act, 1988. The permitted total load for the subject vehicle as per Permit # MP/141/19 issued by Bhopal RTO is 3830 kgs. The weight mentioned by the claimant in the claim form was found to be 6250kgs. Upon investigation with the seller of the goods the weight was found to be 7150 kgs and the spot surveyor also confirmed the weight of the sample PVC sheet thereby through extrapolation the weight of total consignment was obtained as 6523.9 kgs. The Company had also verbally asked the insured repeatedly to submit the load challan/ weighment slip in support of his claim that the vehicle was loaded under the permissible limits at the time of accident. Since the claimant/insured could not provide any valid details in support of his claim that his vehicle was loaded within permissible limits due to claimants own declaration in the claim form and on the basis of the available documents/ information on record the Company had repudiated the subject claim of the insured.

- The Complainant has filed complaint letter, Annex. VIA and correspondence with respondent while respondent have filed SCN with enclosures.
- I have heard both parties over Go To Meeting App at length and perused paper filed on behalf of the complainant as well as the Insurance Company.
- **Observation and Conclusion** : The complainant had lodged a claim under above policy for expenses incurred in repair of his vehicle that got imbalanced and collided a tree as its front tyre got punctured which was repudiated by the respondent for the violation of Section 79/80 of the Central Motor Vehicle Act, 1988 stating that the vehicle was loaded with excess weight than the standard laden capacity of the vehicle. Respondent has stated that the vehicle was loaded with a weight of 6523.90 kgs while permissible standard laden weight as per RTO was 3830 kgs. Goods Vehicle Permit No.17000045354 reveals that gross vehicle weight with laden goods shall not exceed 6250 kgs. Mr Arsalan Khalidji Spot Surveyor appointed by respondent had investigated the matter and found the total weight of the laden goods without vehicle weight as 6523.90 kgs. Respondent had stated that their investigator met with the seller of the goods and found that the weight of one square metre sheet was 0.81386 kg and total weight of 8016 square metre sheet was 6523.90 kgs. Tax Invoice dated 22.07.2020 shows that 8016 square metre flooring sheet was being loaded in the vehicle. Complainant had not filed any evidence with respect to weight of laden goods. Hence at the time of said incident the vehicle was loaded with 6523.90 kgs in addition to vehicle weight. Section 79 of M V Act deals with the grant of goods carriage permit which provides that gross vehicle weight of any vehicle used shall not exceed a specified maximum. Section 113(iii) of M V Act provides that no person shall drive or cause or allow to be driven in any public place any motor vehicle the laden weight of which exceeds the gross vehicle weight specified in the Certificate of Registration. As per policy, policy covers use only under a permit within the meaning of Motor Vehicle Act, 1988. Permissible weight of laden goods is 3830 kgs and as per Circular of the respondent company if overloading percentage is 12.5% of GVW claim shall be repudiated. In this case overloading percentage works out to 43.08% (laden weight 8943 – GVW 6250 / GVW 6250 x 100). As per respondent, complainant carried excess weight of 2693.90 kgs. Hence complainant had driven his vehicle in violation of Section 79 / 113 (iii) of Motor Vehicle Act, 1988 and hence repudiation of the claim by the respondent is in order. In the result, complaint is liable to be dismissed.

-

AWARD

The complaint filed by Mr. Hari Shankar Belwanshi stands dismissed herewith.

- L
e

t copies of the order be given to both the parties.

Dated : Feb 04, 2021

Place : Bhopal

(G.S.Shrivastava)

Insurance Ombudsman

PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF ODISHA, BHUBANESWAR
(UNDER RULE NO: 16(1)/17 OF THE INSURANCE OMBUDSMAN RULES, 2017)
OMBUDSMAN – Shri Suresh Chandra Panda

CASE OF MR. BINOR KUMAR PERIHAL Vrs. The ORIENTAL INSURANCE COMPANY LIMITED
COMPLAINT REF: NO: BHU-G-050-2021-0108
AWARD NO: IO/BHU/A/GI/ /2020-21

1.	Name & Address of the Complainant	Mr. Binod Kumar Perihal, C/o Ratanlal Perihal, Katchery Road, Balasore-756001 Cell no.8093009421. Mail id-akshayperihal08@gmail.com
2.	Policy No: Type of Policy Duration of policy/Policy period	345700/31/2018/3633 Passenger carrying commercial vehicle Vehicle no. OD-O1U-7881 (12 months) 22/11/2017 to 21/11/2018, DoA 23.03.2018
3.	Name of the insured Name of the policyholder	Mr Binod Kumar Perihal, --do--
4.	Name of the insurer	The Oriental Insurance Company Limited
5.	Date of Repudiation	Not settled
6.	Reason for repudiation	Non-response from the insured on mode of settlement.
7.	Dt. of receipt of the Complaint	16/09/2020
8.	Nature of complaint	Non settlement of claim
9.	Amount of Claim	Rs.19,83,500/-
10.	Date of Partial Settlement	Not settled
11.	Amount of relief sought	Rs.19,83,500/-
12.	Complaint registered under Rule no: of IO rules	13(1)a
13.	Date of hearing/place	22/02/2021, Bhubaneswar
14.	Representation at the hearing	
	a) For the Complainant	Self in person
	b) For the insurer	Mr. P K sahu, Sr. DM over VC and phone
15.	Complaint how disposed	U/R 17 of the Insurance Ombudsman Rules, 2017
16.	Date of Award/Order	22/02/2021

17. a. Brief Facts of the Case/ Cause of Complaint: - The insured cum complaint and Registered owner of a Passenger carrying bus bearing Regd no. OD-O1U-7881 insured his vehicle with The Oriental Insurance Company Limited for IDV of Rs.30,00,000/- for the period 22/11/2017 to 21/11/2018 vide policy no. 345700/31/2018/3633. The captioned vehicle met with an accident on 23/03/2018 after which Er.S.C.Senapati was engaged for assessment of loss and had assessed the loss for Rs.10,35,000/- (Ten lacs thirty five thousand only)on repair basis. On 30/10/2018 insured had expressed his consent to repair the vehicle but requested to pay Rs.15,00,000/- as advance for repair. On 12/02/2019 again changed his mind and intimated that he is not in a position to repair the vehicle due to financial incapability and requested for cash loss settlement. On 28/08/2019 insured requested insurer to provide him spot and final survey report and settle claim on cash loss

basic. On 04/10/2019 Insured again requested to send the survey report of Mr. S.C.Senapati to him. Subsequently insured requested vide his undated letter which was received by insurer on 06/01/2020 to appoint another surveyor or allow him to depute another surveyor as per list of insurance company. On 22/01/2020 insured requested Chairman Indian Institute of Surveyor and Loss Assessor to assess the loss who had assessed the loss for Rs.15,83,500/- (Fifteen lacs eighty-three thousand and five hundred only). On 08/07/2020 insured had sent report of Indian Institute of Insurance surveyor and loss assessor, Bhubaneswar to Insurer. Vide letter dated 08/08/2020 insured again requested for advance of Rs.10, 00,000/- for proceeding for repair or agree to cash loss assessed by Indian Institute of surveyor and loss assessor Odisha. On 30/07/2019 insurer had communicated insured to finally confirm whether he wants cash or repair loss settlement. On 21/08/2020 insurer again requested to confirm whether he is interested for repair loss or cash loss settlement. Since on 19/08/2020 insured had represented this office on his grievance he had intimated the same to insured vide his letter dated 31/08/2020. Due to non-response by insured on mode of settlement claim has not been settled by insurer. Being aggrieved on non-settlement of claim, the complainant has lodged his grievance before this forum.

b. The insurer, in its self-contained note, has confirmed that vehicle no. OD-O1U-7881 was insured by them which covers the date of accident. They had informed the insured that only advance can be given if the vehicle is repaired at Authorized Garage/tie up garage and intimated final surveyor accordingly. They had confirmed that final surveyor assessed the loss for Rs.10,45,000/- (Ten lacs forty-five thousand only) on repair basis subject to submission of cash memo and bills. As per request letter of insured dated 28/08/2019 surveyor had assessed the loss on cash loss basis for Rs.6,18,915/-. (Six lacs eighteen thousand nine hundred and fifteen only). They had finally had written on 21/08/20 to insured to confirm whether he wants cash loss or repair loss basis and without confirming to them he approached this forum.

18. a. Complainant's Argument: - He had requested for on account payment and cash loss settlement on which no action taken by insurer for two and half years for which he had approached this forum

a. Insurer's Argument: - They had assessed the loss for 10,45,000/- (ten lacs forty-five thousand only) on repair basis subject to submission of cash memo and bills) and Rs.6,18,915/- (six lacs eighteen thousand nine hundred fifteen only) on cash loss basis. Since the insured had not confirmed the basis of settlement they are waiting for his response and on receipt of that they will proceed further for settlement of claim.

19. Reason for Registration of Complaint: Scope of the Insurance Ombudsman Rules, 2017.

20. The following documents are placed in the file.

a. Photocopies of Policy, assessment made by surveyor on repair and cash loss basis, insurer letter dated 30/07/2020 and letter dated 21/08/2020 to insured

b. Insured's letter 30/10/2018, 12/02/2019, 28/08/2019, Survey report of Chairman Indian Institute of Surveyor and Loss Assessor arranged by insured

21. Result of hearing with both parties (Observations & Conclusion): - This Forum has carefully gone through all the documents relating the complaint and heard both the parties. The insurer, on being asked by the complainant for advance for repair, informed that the complainant did not confirm if he wanted cash-loss or repair basis settlement in spite of their reminders, as they do not

have any provision for cash advance. The insurer informed that the net payable amount on repair basis and on cash-loss basis comes to Rs. 10,35,000/- and Rs.6,18,915/- respectively. The complainant stated that the settlement was very much on lower side and therefore he approached the insurer for assessment to be made by another surveyor. But after not getting any response from the insurer, the complainant approached the institute of surveyors for appointing another surveyor for reassessment. The Institute of surveyors assessed the loss for Rs.1583500/- on repair basis. The complainant stated that based on the extent of loss the settlement should be around Rs.15.00 lakh. The Forum examined the photographs and found that there is extensive damage.

AWARD

Taking into account the facts and circumstances of the case and submissions made by both the parties during the course of hearing, it is found that the vehicle is damaged extensively. It is also found that the complainant did not approach IRDAI for appointment of 2nd surveyor, rather he engaged the Institute of Surveyors for assessment of the loss. Though the Forum does not accept the institute's report except as a reference, as the institute does not hold any surveyor's licence as profession. It is found that there are huge differences in both the reports in regard with the parts and labour charges. Considering the nature and extent of the loss captured in the photographs and the indications found from the report of the institute of surveyors, the Forum believes that the complainant is entitled for his just compensation by an extra amount of RS.3,00,000/- on repair basis. The complainant has shown interest for cash-loss settlement and therefore, the insurer is directed to pay the complainant Rs. 7,59,916/- (already assessed by the insurer Rs. 6,18,915/- + 1,41,000/- after deduction of 53% from Rs.3,00,000/- towards tax and others) (Rs. seven lakh fifty nine thousand nine hundred sixteen only) on cash-loss basis subject to adherence of cash-loss settlement procedure.

Accordingly, the complaint is allowed.

22. The attention of the Complainant and the Insurer is hereby invited to the following provisions of Insurance Ombudsman Rules, 2017:
- a. According to Rule 17(6) of Insurance Ombudsman Rules,2017, the Insurer shall comply with the award within 30 days of the receipt of the award and shall intimate the compliance of the same to the Ombudsman.
 - b. As per Rule 17(8) of the said rules and award of the Insurance Ombudsman shall be binding on the Insurers.

Dated at Bhubaneswar on the 22nd day of February, 2021

INSURANCE OMBUDSMAN
FOR THE STATE OF ODISHA

PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF ODISHA, BHUBANESWAR
(UNDER RULE NO: 16(1)/17 OF THE INSURANCE OMBUDSMAN RULES, 2017)
OMBUDSMAN – Shri Suresh Chandra Panda

CASE OF CHANDRA KANTA GACHHAYAT Vrs. NATIONAL INSURANCE COMPANY LIMITED

COMPLAINT REF: NO: BHU-G-048-2021-0116

AWARD NO: IO/BHU/A/GI/ /2020-21

1.	Name & Address of the Complainant	Mr Chandra Kanta Gachhayat At-Jamukana, Po-Bhitara Andhari, PS-Erasama Dist: Jagatsinghpur, Pin-754139, Cell no.9583753344 Mail id-sandeepgachhayat@gmail.com
2.	Policy No: Type of Policy Duration of policy/Policy period	1631023120100001111, Vehicle no. OD-05-AH-7570 Motor Goods carrying vehicle-Package 12 months, 22/05/2020 to 21/05/2021
3.	Name of the insured Name of the policyholder	Mr. Chandra Kanta Gachhayat --do--
4.	Name of the insurer	National Insurance Company Limited
5.	Date of Repudiation	14/09/2020
6.	Reason for repudiation	Overloading of vehicle beyond permissible limit
7.	Dt. of receipt of the Complaint	06/11/2020
8.	Nature of complaint	Repudiation by insurance company
9.	Amount of Claim	Rs.3,78,543/-
10.	Date of Partial Settlement	Does not arise
11.	Amount of relief sought	Rs.3,78,543/-
12.	Complaint registered under Rule no: of IO rules	13(1)b
13.	Date of hearing/place	22/02/2021, Bhubaneswar
14.	Representation at the hearing	
	c) For the Complainant	Self
	d) For the insurer	Mr. B Panigrahi, AM over phone
15.	Complaint how disposed	U/R 17 of the Insurance Ombudsman Rules, 2017
16.	Date of Award/Order	22/02/2021

17. a. Brief Facts of the Case/ Cause of Complaint: - The insured cum complainant is registered owner of Tata LPK 2518 CRE BS IV model bearing no. OD-05-H-7570 and had insured his vehicle with National Insurance company limited vide policy no. 1631023120100001111 under Motor Goods carrying vehicle-Package policy for the period 22/05/2020 to 21/05/2021. On 03/06/2020 while the vehicle was being loaded with 14 CM sand met with an accident near Sama Chhak Jagatsinghpur resulting in the damage to the vehicle. Er Binayak Das Surveyor was utilized to assess the loss, who assessed the net liability at Rs.2,83,000/-. Surveyor had calculated the weight of 14 CM dry sand as 22834kg and has substantiated that by submitting a sheet from internet wherein it is mentioned that weight of 1 cubic meter of dry sand weight is 1631 kg which was multiplied by 14 which comes to 22834 kg. RC copy shows that laden weight of vehicle as 25000 kg and un laden weight as 11070 kg. If un laden weight is deducted from laden weight permissible carriage limit

comes to 13930 kg (25000-11070). Load challan submitted by insurer shows that 14 CM sand was carried by vehicle no. OD-05-AH-7570 on 03/06/2020 to Allipingal via Andhari wherein driver name was written as Bikram. As per claim form name of driver was Mr. Bikram Ku Gachhyat which corroborated the carriage of sand by said driver. As the vehicle was overloaded by more than 60% at the time of accident Insurance Company had repudiated the claim. Being aggrieved on non-admission of claim the present complaint has been filed for redressal of his grievance.

b. The insurer, in its self-contained note, has stated that vehicle no. OD-05-AH-7570 was insured vide Motor Goods carrying vehicle-Package policy for the period 22/05/2020 to 21/05/2021 vide policy no. 1631023120100001111 which met with an accident on 03/06/2020 being loaded with 14 cubic meters of sand. Load challan submitted by insured corroborates the finding of the survey report. As per finding of surveyor the load of sand was converted to kg which comes to 22834 (1631 x 14). As per RC book gross vehicle weight of vehicle is 25000kg and unladen weight is 11070 kg and therefore carrying capacity should be 13930 kg. At the instant time of accident vehicle was overloaded by carrying capacity by a margin of more than 60% which was violation of the permit certificate as per section 66 of MV Act which read as "No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passenger or goods save in accordance with the condition of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorizing him the use of the vehicle in that place in the manner in which the vehicle is being used". They have submitted relevant circular of their company being no. 27/2018-19 which shows that where the overloading percentage is beyond 12.5% of GWV claim to be repudiated.

18. a. Complainant's Argument: - As he had repaired the vehicle by spending a sum of Rs.3, 78,543/- which met with an accident on 03/06/2020 and was duly insured vide policy no. which covers the date of accident he is entitled to be compensated his loss.

b. Insurer's Argument: - As the vehicle was overloaded by more than 60% which exceeds permissible limit of carriage as per RC book which was a violation of section 66 of MV Act, they had rightly repudiated the claim as per their internal circular no.27/2018-19 dated 25/09/2018.

19. Reason for Registration of Complaint: Scope of the Insurance Ombudsman Rules, 2017.

20. The following documents are placed in the file.

- a. Photocopy of Policy, RC Book and Claim form,
- b. Assessment report of Surveyor Mr Binayak Das,
- c. Circular no. 27/2018-19 dated 25/09/2018 on repudiation of claim where overloading percentage is beyond 12.5% of GWV, Calculation of dry weight of sand as derived from internet signed by surveyor.

21. Result of hearing with both parties (Observations & Conclusion): - This Forum has carefully gone through all the documents relating the complaint and heard both the parties. It is observed that the load challan records that the vehicle was loaded with 14 cubic meters of sand. Translated into Gross vehicle weight, the actual weight of the vehicle including the sand weight comes to 33904 kg. As per the RC Book, the permissible Gross Weight of the vehicle is 25000 kg. The complainant stated that the vehicle was not loaded with 14 CM but was actually loaded with 8 CM, which is within permissible limit. The insurer informed that the vehicle was overloaded by more

than 60% and the circular allows overloading up to 12.5% on non-standard settlement basis, but since the variation is more than 60% the claim is repudiated. The Forum examined the circular of the insurer and found that claims with overloading beyond 12.5% is not payable.

AWARD

Taking into account the facts and circumstances of the case and submissions made by both the parties during the course of hearing, it is observed that the load challan mentions that the vehicle was carrying 14 CM of sand at the time of accident. Since the vehicle was carrying more than 30% excess, in terms of gross vehicle weight and as the overloading is beyond permissible limit, the complainant is not entitled for the claim.

Accordingly, the complaint stands dismissed.

Dated at Bhubaneswar on the 26th day of February, 2021

INSURANCE OMBUDSMAN
FOR THE STATE OF ODISHA

**PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF TAMILNADU & PUDUCHERRY
(UNDER RULE NO: 17(1) OF THE INSURANCE OMBUDSMAN RULES, 2017)
OMBUDSMAN – SHRI M VASANTHA KRISHNA
Case of Mr V Babu Vs The New India Assurance Company Ltd
COMPLAINT REF: NO: CHN-G-049-2021-0107
Award No: IO/CHN/A/GI/0060/2020-2021**

1.	Name & Address of the Complainant	Mr V Babu 65 Eswaran Koil Street, Seekarajapuram 632515
2.	Policy No: Type of Policy Duration of policy/Policy period Insured's Declared Value (IDV)	711814311901000017 <i>Commercial Vehicle Package Policy</i> 24/06/2019-23/06/2020 INR 1,50,000
3.	Name of the insured Name of the policyholder/proposer	Mr V Babu Mr V Babu
4.	Name of the insurer	The New India Assurance Company Ltd
5.	Date of repudiation/short settlement	Not applicable
6.	Reason for repudiation/ short settlement	Not applicable
7.	Date of receipt of the Complaint	03/11/2020
8.	Nature of complaint	Non-settlement of the claim (delay)
9.	Date of receipt of consent (Annexure VIA)	24/11/2020
10.	Amount of Claim	INR 1,50,000
11.	Amount of Monetary Loss (as per Annexure VIA)	Not furnished
12.	Amount paid by the insurer, if any	Nil
13.	Amount of Relief sought (as per Annexure VIA)	Not furnished
14.a.	Date of request for Self-contained Note (SCN)	03/11/2020
14.b.	Date of receipt of SCN	18/12/2020
15.	Complaint registered under	Rule 13(1)(b) of the Insurance Ombudsman Rules, 2017
16.	Date of hearing/place	By Video Conferencing (VC) on 11/01/2021
17.	Representation at the hearing	
	• For the Complainant	Mr V Babu
	• For the insurer	Mr K Sundar
18.	Disposal of Complaint	By Award
19.	Date of Award/Order	05/02/2021

20. Brief Facts of the Case:

- The complainant insured his taxi with registration no. TN 23 BH 7763, under the respondent insurer (RI)'s *Commercial Vehicle Package* Policy for the period from 24/06/2019 to 23/06/2020 for an IDV of INR 1,50,000.
- On 06/12/2019, the insured vehicle (IV) met with an accident and the claim was intimated to the RI on 03/01/2020. Surveyor Mr Lakshmi Narayanan deputed by the RI, inspected the IV to assess the cause and extent of the damage and submitted his report to the RI.
- Since then, there is no response from the RI. The complainant represented the issue of non-settlement of the claim to the RI but there is no response from the RI even to his representation. Hence, the complainant has approached this Forum for relief.

21. a) Complainant's submission:

- The complainant's taxi TN 23 BH 7763 insured with the RI met with an accident on 06/12/2019 and an estimate of repair for INR 2,35,810 was submitted to them on 03/01/2020.
- A survey was conducted by Mr Lakshmi Narayanan, an independent surveyor who submitted his report to the RI. But the complainant did not get any feedback regarding the settlement of his claim thereafter.
- The RI was reminded to settle the claim vide letter dated 04/07/2020 of the complainant, but there is no response from them. The complainant has submitted that he is struggling without any income during the current COVID 19 pandemic and has sought the Forum's intervention for settlement of the claim.

b. Insurer's contention:

- ❖ The complainant intimated the subjected claim to the RI on 09/12/2019 in respect of the accident to the IV on 06/12/2019. SIPCOT Police Station, Ranipet was intimated of the accident on 21/12/2019.
- ❖ Surveyor Mr Lakshminarayanan was appointed on 07/01/2020 to assess the loss as against the repair estimate of INR 2,35,810.
- ❖ Survey report dated 17/02/2020 was received by the RI on 27/02/2020. The surveyor has assessed the loss on *total loss* basis since the possibility of repair is remote. The complainant has been informed in person in June to cancel the Registration

Certificate (RC) of the IV and submit the “*order of cancellation*” certificate as per the norms of the Insurance Regulatory & Development Authority of India (IRDAI) to settle the claim on “*Total Loss*” cum “*Non-Standard*” basis.

- ❖ Meanwhile, the complainant approached the Grievance Department of the RI with a representation dated 06/07/2020 (during the COVID-19 lockdown) and later approached the Forum of Insurance Ombudsman on 13/10/2020.
- ❖ The Regional Transport Authority (RTA), Vellore was requested by the RI to cancel the RC, vide letter dated 24/11/2020 as the vehicle was completely damaged and as the surveyor has recommended settling the claim on '*Total Loss*' basis.
- ❖ The complainant was also requested by a letter of the same date to explain the reasons for not asking for a spot survey. He was also advised to submit his consent for *sub-standard* settlement of the claim on *total loss* basis with an undertaking that he will not claim the garage rent.
- ❖ The claim is therefore pending for want of the RC Cancellation Certificate and other documents sought from the complainant.

22. Reason for Registration of Complaint:

The complaint is registered under Rule 13 (1) (b) of the Insurance Ombudsman Rules, 2017, which deals with “*Any partial or total repudiation of claims by the life insurer, General insurer or the health insurer*”.

23. Documents placed before the Forum:

- Written Complaint dated 04/08/2020 and 02/11/2020 to the Insurance Ombudsman
- Complainant’s representation dated 04/07/2020 to the RI
- Consent (Annexure VI A) submitted by the Complainant
- Claim form dated 03/01/2020
- Estimate of repairs
- Self-contained Note of the RI

24. Result of hearing (Observations & Conclusion)

1. Given the prevailing situation due to COVID 19 pandemic, the hearing was conducted through VC on 11/01/2021, with the consent of and participation by both the complainant and the insurer.
2. The subject matter of the dispute is the delay in settlement of the *Motor own damage* claim lodged by the complainant for the IV.
3. The Forum records its displeasure over the delay in submission of the SCN by the RI.
4. The RI stated that in June 2020, the complainant was asked to fulfil all the formalities for settling the claim on a *total loss* basis, but he has not so far submitted the relevant documents. During the hearing, the complainant denied the statement of the RI that he was informed of the claim status in June 2020.
5. Although the survey report was received on 27/02/2020, almost a month before the declaration of the COVID-19 related lockdown, the RI did not process the claim immediately. Although they claim to have communicated orally the requirements for settlement of the claim in June 2020, the complainant has categorically denied having received any communication. Such communication in writing was sent to the complainant only on 24/11/2020, as admitted by the RI themselves in the SCN.
6. The move by RI to settle the claim on a *non-standard* basis (apparently due to the complainant not seeking a spot survey) is also arbitrary since the policy of insurance does not mandate spot survey.
7. During the hearing, the complainant was directed to submit the documents sought by the RI. to facilitate settlement of the claim by the latter. The complainant shall be entitled to interest up to 24/11/2020, given the delay on the part of the RI in conveying the requirements for settlement.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties, the respondent insurer is directed to settle the claim of the complainant for INR 1,49,000 on *total loss* basis, upon complainant's submission of the necessary documents subject to the terms and conditions of the policy. Besides, interest as defined under Rule 17 (7) of the Insurance Ombudsman Rules, 2017 is payable till 24/11/2020.

Thus, the complaint is **allowed**.

25. The attention of the insurer is hereby invited to the following provisions of the Insurance Ombudsman Rules, 2017:

- a) According to Rule 17(6) of the Insurance Ombudsman Rules, 2017, the insurer shall comply with the award within thirty days of the receipt of the award and intimate compliance of the same to the Ombudsman.
- b) According to Rule 17(7) of the Insurance Ombudsman Rules, 2017, the complainant shall be entitled to such interest at a rate per annum as specified in the regulations, framed under the Insurance Regulatory and Development Authority of India Act, 1999, from the date the claim ought to have been settled under the regulations, till the date of payment of the amount awarded by the Ombudsman.
- c) According to Rule 17(8) of the Insurance Ombudsman Rules, 2017, the award of Insurance Ombudsman shall be binding on the insurers.

Dated at Chennai on this 5th day of February 2021.

(M Vasantha Krishna)
INSURANCE OMBUDSMAN
FOR THE STATE OF TAMIL NADU AND PUDUCHERRY

**PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF TAMILNADU & PUDUCHERRY
(UNDER RULE NO: 17(1) OF THE INSURANCE OMBUDSMAN RULES, 2017)
OMBUDSMAN – SHRI M VASANTHA KRISHNA
Case of Mrs S Lokanayaki Vs National Insurance Company Ltd
COMPLAINT REF: NO: CHN-G-048-2021-0118
Award No: IO/CHN/A/GI/0064/2020-2021**

1.	Name & Address of the Complainant	Mrs S Lokanayaki 4/58, Asari Kaadu, Adi Dravidar Street, Pullagoundampatti 637104
2.	Policy No: Type of Policy Duration of policy/Policy period Insured's Declared Value (IDV)	654331166300009864 <i>Goods Carrying Vehicle Package Policy</i> 08/02/2017-07/02/2018 INR 8,00,000
3.	Name of the insured Name of the policyholder/Proposer	Mrs Lokanayagi S Mrs Lokanayagi S
4.	Name of the insurer	National Insurance Company Ltd
5.	Date of partial settlement of the claim	08/08/2019
6.	Reason for the partial settlement	Loss of second key not informed to the RI; Delayed claim intimation
7.	Date of receipt of the Complaint	12/11/2020
8.	Nature of complaint	Partial settlement of the claim
9.	Date of receipt of consent (Annexure VIA)	30/11/2020
10.	Amount of Claim	INR 7,99,000
11.	Amount of Monetary Loss (as per Annexure VIA)	INR 96,500
12.	Amount paid by the Insurer, if any	INR 7,18,500
13.	Amount of Relief sought (as per Annexure VIA)	INR 96,500
14.a.	Date of request for Self-contained Note (SCN)	13/11/2020
14.b.	Date of receipt of SCN	24/11/2020
15.	Complaint registered under	Rule 13(1)(b) of the Insurance Ombudsman Rules, 2017
16.	Date of hearing/place	By Video Conferencing (VC) on 21/01/2021
17.	Representation at the hearing	
	• For the Complainant	Mr Sengodan (Husband)
	• For the insurer	Mr P Ramachandran
18.	Disposal of Complaint	By Award
19.	Date of Award/Order	24.02.2021

20. Brief Facts of the Case:

- The Complainant insured her truck bearing registration no. TN 30 U 9923 under the respondent insurer (RI)'s *Commercial Vehicle Package* Policy for the period from 08/02/2017 to 07/02/2018 for an IDV of INR 8,00,000.
- The insured vehicle (IV) was found stolen on 24/12/2017 with a load of 320 bags of cement and the theft claim preferred on the RI was settled by them for INR 7,18,500 treating it as a non-standard claim.
- Aggrieved by the partial settlement of the claim as against the IDV of INR 8,00,000, the complainant appealed to the Grievance Department of the RI for a review.
- Since there is no reply from the RI to her appeal, she has approached this Forum for relief.

21. a) Complainant's submission:

- The IV was found stolen on 24/12/017 when it was parked on the road opposite India Cements Limited, Sankagiri.
- The RI initially offered INR 6,38,500 towards the settlement of the theft claim
- The complainant did not agree to the offer made by the RI and they enhanced the offer to INR 7,18,500 and the same was reluctantly accepted because of the financial difficulties faced by the complainant.
- Subsequently, the RI was requested to settle the balance amount of INR 81,500 as the IDV of the IV is INR 8,00,000 and to pay INR 15,000 in addition on account of other expenses incurred. However, the RI refused the payment on the ground that the claim was already settled based on the complainant' acceptance and discharge.
- Therefore, the Forum's intervention is requested for settlement of the balance amount as claimed by the complainant.

b. Insurer's contention:

- The complainant's driver had parked the IV in an unauthorized place, i.e. by the side of the road without any attendant for more than 20 hours and thus the complainant and her driver failed to safeguard the IV.
- The loss of key of the IV by the complainant was neither informed to the RI nor the police and thus condition no. 5 of the policy was violated.
- There was also a delay of 25 days in intimation of the claim to the RI and thereby the complainant violated condition no. 1 of the policy.

- The claim, therefore, merited repudiation in view of the violation of the policy conditions as highlighted above.
- However, to be just and fair to the complainant, a discussion was held with her explaining the violation of policy conditions. After being informed that the claim warrants repudiation in view of the said violations, she agreed to a settlement of the claim on a non-standard basis for INR 7,18,500 for 90% of the IDV. The claim was settled accordingly after obtaining a duly stamped and signed discharge voucher from her.
- By approaching the Forum for further compensation, the complainant has gone back on her earlier acceptance of the settlement, which is a breach of *Utmost Good Faith*.
- For the above reasons, the RI is seeking the dismissal of the complaint filed against them.

22. Reason for Registration of the Complaint

The complaint is registered under Rule 13 (1) (b) of the Insurance Ombudsman Rules, 2017, which deals with “*Any partial or total repudiation of claims by the life insurer, General insurer or the health insurer*”.

23. Documents placed before the Forum:

- ✓ Written Complaint dated 10/11/2020 to the Insurance Ombudsman
- ✓ RI's claim settlement letter dated 08/08/2019
- ✓ Complainant's representation dated 13/02/2020 to the RI
- ✓ RI's reply dated 13/11/2020
- ✓ Consent (Annexure VI A) submitted by the Complainant
- ✓ Self-contained Note (SCN) of the RI dated 23/11/2020
- ✓ Copy of *Commercial Vehicle Package* Policy with terms & conditions
- ✓ RI's letter dated 15/07/2019 to the complainant offering settlement
- ✓ Claim form dated 30/01/2019
- ✓ FIR no. 734/2017 dated 25.12.2017 in PS Komarapalayam
- ✓ Final Police Report dated 23/01/2019
- ✓ Investigation report dated 22/03/2019 of Mr K C Chidambaranathan
- ✓ Opinion dated 18/09/2020 of Mr V Gopalakrishnan, advocate
- ✓ RI's claim approval note
- ✓ Acceptance dated 07/08/2019 of the complainant of the assessment

24. Result of hearing (Observations & Conclusion)

8. Given the prevalent COVID 19 pandemic situation, the hearing was conducted through VC on 21/01/2021, with the consent of and participation by both the complainant and the RI.
9. The main grievance of the complainant is the settlement of the theft claim on a non-standard basis for 90% of the IDV as against her eligibility for 100% of the IDV.
10. Though the RI highlighted the delayed intimation of the claim in their SCN, the delay was condoned in their claim approval note by citing the judgment of the Hon'ble Supreme Court in the case between *Om Prakash and Reliance General Insurance Company*.
11. The RI considered the claim on a non-standard basis on the ground that the complainant surrendered only one key of the IV and the other key was misplaced as declared by the complainant, but the same was not informed to the RI/police.
12. The RI received a legal opinion from Mr V Gopalakrishnan, advocate stating that the claim is not payable as held by the National Consumer Disputes Redressal Commission (NCDRC) on 26/06/2020 in the case of *Prisca Caroline Fernandes and Ors Vs Pravin Kumar B Jain and Ors* (MANU/CF/0343/2020), in case the theft occurred using the duplicate key. In the present case, since it is not proved that the IV was stolen by using the duplicate key but at the same time the possibility cannot be ruled out as one key is lost, he opined that the settlement of the claim on a non-standard basis is in order, especially when the insured has also agreed to it. It is however noted that this opinion was obtained post-settlement of the claim.
13. The decision of NCDRC cited by the advocate is in respect of a theft in a factory where the theft was committed by use of duplicate keys and there is no allegation that the key had been obtained by assault, violence or any threat and with the assistance of an employee of the insured or any other person lawfully present on the premises of the insured.
14. The RI's argument that the complainant has duly accepted the settlement by discharging the claim voucher is not valid in view of the directive of the Insurance Regulatory & Development Authority of India (IRDAI) vide their circular no.

IRDA/NL/CIR/Misc/173/09/2015 dated 24/09/2015 wherein it is stated that “*However, it should be clearly understood that execution of such vouchers (Discharge Vouchers) does not foreclose the rights of policyholder to seek higher compensation before any judicial fora or any other fora established by law.*”

15. During the hearing, the complainant’s representative stated that when the IV was purchased second-hand, the previous owner handed over only one key along with the vehicle. However, such an explanation was not given by the insured to the RI at no point in time before. Hence, no reliance can be placed on the statement made to the Forum. Since the possibility of the IV being stolen using its key cannot be completely ruled out, the settlement of the claim on a non-standard basis for 90% of the IDV by the RI is justified.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties, the Forum is of the view that the settlement of the claim on a non-standard basis by the respondent insurer is in order and does not warrant its intervention

Thus the complaint is **not allowed**.

25. In case the complainant is dissatisfied with this decision, she is free to approach any other court or forum as appropriate, against the respondent insurer.

Dated at Chennai on this 24th day of February 2021

**(M Vasantha Krishna)
INSURANCE OMBUDSMAN
FOR THE STATE OF TAMIL NADU AND PUDUCHERRY**

PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF TAMILNADU & PUDUCHERRY
(UNDER RULE NO: 17(1) OF THE INSURANCE OMBUDSMAN RULES, 2017)
OMBUDSMAN – SHRI M VASANTHA KRISHNA
Case of M/s STEM Infrastructure Vs United India Insurance Company Ltd
COMPLAINT REF: NO: CHN-H-051-2021-0116
Award No: IO/CHN/A/GI/0070/2020-2021

1.	Name & Address of the Complainant	M/s STEM Infrastructure 23, Venkatamangalam village, Kandigai 600048
2.	Policy No: Type of Policy Duration of policy/Policy period Insured's Declared Value (IDV)	0111003117P117306043 GCV Public Carrier Package Policy 02/03/2018-01/03/2019 INR 33,07,000
3.	Name of the insured Name of the policyholder/proposer	M/s STEM Infrastructure M/s STEM Infrastructure
4.	Name of the insurer	United India Insurance Company Ltd
5.	Date of repudiation of the claim	24/02/2020
6.	Reason for repudiation	Permit violation
7.	Date of receipt of the Complaint	04/11/2020
8.	Nature of complaint	Non-settlement of the claim
9.	Date of receipt of consent (Annexure VIA)	27/02/2020
10.	Amount of Claim	Not furnished
11.	Amount of Monetary Loss (as per Annexure VIA)	INR 48,65,670
12.	Amount paid by the insurer, if any	Nil
13.	Amount of Relief sought (as per Annexure VIA)	INR 25,69,636
14.a.	Date of request for the Self-contained Note (SCN)	11/11/2020
14.b.	Date of receipt of SCN	04/12/2020
15.	Complaint registered under	Rule 13(1)(b) of the Insurance Ombudsman Rules, 2017
16.	Date of hearing/place	By Video Conferencing (VC) on 21/01/2021
17.	Representation at the hearing	
	• For the Complainant	Mr K Sundar(Proprietor)
	• For the insurer	Mrs Uma
18.	Disposal of Complaint	By Award
19.	Date of Award/Order	26/02/2021

20. Brief Facts of the Case:

- The complainant Mr A Kumar, the proprietor of STEM Infrastructure insured the truck with registration no. TN 11 AH 1199 belonging to the firm, under the respondent insurer (RI)'s *GCV Public Carrier Package* policy for the period from 02/03/2018 to 01/03/2019 for an IDV of INR 33,07,000.
- The insured vehicle (IV) met with an accident on 09/01/2019 within the jurisdiction of Kudligi Police Station in Ballari district of Karnataka State. The accident was intimated to the police and the RI and a spot survey was conducted by Mr S Khadeer Ahmed, licensed surveyor and the final survey by Mr N Suryakumar.
- The complainant's claim was repudiated by the RI on the ground that there was a violation of the Karnataka State permit availed for the IV. The vehicle was used at the Chitradurga-Hospet National Highway Road works in the State of Karnataka and was carrying sand between KM 351 and KM 341 of the Highway when it met with an accident, whereas the permit prohibits the use of the IV for the transport of goods between any two points in the State of Karnataka.
- Aggrieved by the repudiation of the claim, the complainant represented the RI to reconsider their decision. Since there is no reply from them, he has approached this Forum for relief.

21. a) Complainant's submission:

- The complainant is the proprietor of the firm STEM Infrastructure.
- The IV, a Taurus Tipper vehicle with registration no. TN 11 AH 1199 owned in the firm's name met with an accident on Chitradurga to Hospet Road (NH 43), while reportedly carrying the load of chicken manure from Salem, Tamilnadu and the truck was damaged extensively.
- The RI and Police were informed immediately. Spot survey was conducted by Mr S Khadeer Ahmed and after verification of the vehicular documents such as the Registration Certificate (RC), Insurance Policy, Tamil Nadu State Permit & Karnataka State Permit and Tax payment record, the surveyor concluded in his report that all documents were valid.

- After completion of police and transport department formalities, the truck was handed over to the KUN Trucking workshop at Poonamalle, Chennai for attending to the repairs, as instructed by the RI.
- The RI deputed surveyor Mr N Suryakumar to inspect the vehicle who also verified all the documents relating to the IV and after collecting the estimate of repair, permitted to proceed with the repairs.
- The repair work was carried out from February 2019 to June 2019. The surveyor urged the complainant to complete the repair works vide his e-mails dated 29/01/2019, 12/02/2019, 28/05/2019 & 04/06/2019. He also visited the workshop and monitored the repair works. The final inspection was also done by him after the completion of all the repair works.
- The surveyor collected the tax invoice dated 31/05/2019 for the repairs in the name of the RI from the workshop and informed the complainant that the claim processing will be completed in one week and the payment will be made.
- Thereafter, the complainant followed up closely with the RI for the settlement but after a lapse of 9 months, they sent a rejection letter stating that the IV does not have permission to load and unload the goods within the State of Karnataka.
- The RI was explained with documentary proof that the vehicle met with an accident while it was transporting chicken manure from Salem to Kudligi in Karnataka.
- Since the driver was not co-operative after the accident and the cleaner who does not know the local language gave the statement to the police, the latter's statement was wrongly understood by the police which in turn resulted in the wrong narration of the accident in the FIR.
- The complainant alleges that the surveyor obtained a manipulated trip sheet from Mr Basker, his office assistant to match the narration in the FIR.
- Based upon the permission granted by the RI, the vehicle was repaired. The workshop raised an invoice dated 31/05/2019 for INR 25.69 Lakhs and the same was submitted to the RI.
- The RI took 14 months from the date of the accident and 9 months from the date of submission of the bills to convey their decision of the rejection of the claim.

- Had the RI rejected the claim in February 2019 itself, the complainant would have sold the damaged vehicle for INR 10 lakhs and paid the amount to the financier, thereby reducing the outstanding loan amount from INR 23.89 lakhs to INR 13.89 lakhs.
- The RI's delayed decision resulted in a huge financial burden on the complainant as under.

	Amount (INR)
Cost of repairs to the IV	25,69,636
EMI for the vehicle loan (14 months x INR 72,547)	10,15,658
Salary for driver & cleaner (14 months x INR 50,000)	7,00,000
EMI from March 2020 to October 2020 (8 months x INR72,547)	5,80,376
Total	48,65,670

- Since March 2020, the complainant is neither in a position to pay the EMI to the financier nor the repairer to take delivery of the vehicle.
- Hence, it is prayed that justice is rendered to the complainant by the intervention of the Forum.

b) Insurer's contention:

- ❖ The complainant reported an accident to the IV on 09/01/2019 at 5.30 AM at Madan Dhaba, Kudligi to Hosahali Road, Karnataka and the description of the incident was as under.

"While moving near the spot, the driver lost control over the vehicle and collided with the culvert and thus the IV sustained severe damage and nobody was reported to have been injured in the said accident. The matter was reported to the Police, Kudligi PS on 10/01/2019 and FIR was lodged. The cleaner of the vehicle gave a detailed statement to the Police on the occurrence of the accident (which was duly translated) and the FIR was lodged by the cleaner. The cleaner had reported that he

was working as a lorry cleaner in L&T for 2 years and Arunachalam was working as a driver in the lorry which was working for the Company.”

- ❖ The cleaner vide his letter dated 10/01/2019 to the Police stated that *“since 5 five days, they were carrying earth soil and on the date of the accident, i.e., 09/01/2019, he and the driver Mr Arunachalam at 5.30 AM after loading earth soil from Amalapur came to NH 50 Kudligi when the driver lost control of the vehicle opp. Madan Dhaba and hit a culvert causing the relevant damages.”*
- ❖ On receipt of the claim intimation, Mr Khadeer Ahmed, surveyor had conducted the spot survey on 09/01/2019. He confirmed that the complainant’s representative was present at the time of his survey at the spot and as narrated by the representative *“on 09.01.2019 @ 5.30 AM while the insured loaded vehicle was near the spot and the IV Driver lost control over the IV and the IV collided with the culvert and thus sustained severe damages and nobody reported injured in the accident”*. The spot surveyor stated that the IV was loaded with mud gravel and the damages corroborate with the cause of the accident.
- ❖ The final survey was conducted by Mr N Suryakumar and he assessed the loss for a net amount of INR 19,48,537.
- ❖ On scrutiny of the original load challan no.409403, dated 09/01/2019, it was observed that the IV was loaded with earth soil supplied by M/s Stem Infrastructure (the complainant) for delivery to themselves at site 351, Chainage Barrow Area at 5:00 AM.
- ❖ The complainant also submitted load challans no. 409402 & 409404, dated 09/01/2019 which related to trucks TN 11 AK 1199 and TN 22 DL 1199 loaded with earth soil, similarly supplied and delivered by the complainant firm at site 351, Chainage Barrow Area at 5:00 AM.
- ❖ These documents establish that the complainant’s vehicles including the IV, TN 11 AH 1199 were being used for transporting earth soil within Karnataka to Site 351, Chainage Barrow area.
- ❖ However, Permit (additional condition No.1) issued by the Karnataka State Transport Authority (in lieu of A & B Permit A.G.G. Countersignature) reads as under:
The vehicle covered by the countersignature shall not be used for the transport of goods between any two points in the State of Karnataka.
- ❖ The cleaner’s statement to the Police, immediately after the accident and the load challans establish that the vehicle was being used for transport of earth soil between

two points within Karnataka State in violation of the Permit condition.

- ❖ An opinion regarding the validity of the Permit was taken from Mr A.R. Ramesh, an independent Surveyor and he opined that the complainant has violated the counter permit by operating the vehicle locally.
- ❖ The complainant's clarification was sought vide RI's mail dated 29/08/2019 regarding the load challans submitted, transit details of the load and the Permit.
- ❖ In response thereto, the complainant clarified as under vide his e-mail dated 7/9/2019:
 - a) The load challan submitted was filled as a formality whereas IV was used only for transporting chicken manure from Salem, Tamilnadu to Kudligi in Karnataka at the material time.
 - b) The chicken manure mixed with mud load (Koli eru uram) was transported from Mr S Narayanan, 25F, Thanneerkuttapatti, Kuttapatti Post, Mettur Taluk, Salem District, to Mr H M Viswanath, Durgaamma Seda Bavi, Shivapura, Kudiligi Taluk, Karnataka for agriculture purpose.
 - c) During transport, the vehicle met with an accident on 09/01/2019. Since the driver was unable to speak due to shock, the lorry cleaner gave a statement to the police station in Hindi language and the same was incorrectly understood by the police and they registered the FIR accordingly.
 - d) The accident occurred on the road where L&T Company was carrying out road works. The police mistakenly assumed that the vehicle accident happened at L&T Company (*sic*).
 - e) No changes were made as per item C of the Karnataka State Permit - "*In Lieu of A & B Permit A.G.G. countersignature.*"(*sic*)
- ❖ The Insured has submitted a fresh Load challan no.301, dated 07/01/2019 from M/s Vinayaga Transport, Salem, on 20/09/2019 in support of their explanation, which is contrary to the original load challan submitted immediately after the loss.
- ❖ The matter was referred to Mr Surya Kumar, the final surveyor who opined that "*the current statement is contradictory to the statement attached to the claim form and thus there is misrepresentation of material fact pertaining to the accident which is a gross violation of policy conditions*".
- ❖ An opinion was also obtained from Mr M B Raghavan, advocate who stated that "*the Insured's vehicle had valid Permit for Tamil Nadu and had obtained a Counter Permit for use in Karnataka. As per terms of the Karnataka Permit, the vehicle shall not be*

used for carrying load between two places in Karnataka.

At the time of accident it appears that the vehicle was used in Chitradurga-Hospet National Highway road work and was carrying sand loaded from 351 km to 340 Km when it met with accident. This has been admitted in the letter attached to the Claim form and apparently in breach of Karnataka Permit condition.

But in subsequent email dated 7/09/2019, Insured has mentioned that there was communication gap due to language and the vehicle was used for carrying load from Salem.

On careful examination of the records, he is of the opinion that the Insured's statement in the email dated 07/09/2019 cannot be accepted as correct. In the statement annexed to the claim form, it is admitted clearly that the vehicle was used for carrying sand between two locations of the Highway under construction. The original load challan dated 09/01/2019 has also been submitted. Hence the Insured's statement in the email of 07/09/2019 is clearly an afterthought, contradicting the claim form and not acceptable. According to him, *"There is a violation of Permit and consequently breach of Policy. The claim may be declined based on the claim form."*

- ❖ Though the complainant sought to suggest that there was some communication gap and that the vehicle was used for carrying a load from Salem, it is found that the statement in its mail dated 07/09/2019 is incorrect and misleading. The statement annexed to the claim form clearly stated that the vehicle was used for carrying sand between two locations of the Highway under construction which is also supported by the original load challan dated 09/01/2019. Hence, the statement in the email of 07/09/2019 is clearly an afterthought, contradicting the claim form and the statement annexed therewith and contrary to facts/record.
- ❖ LR No.301 dated 07/01/2019 for transporting chicken manure from Salem to Kudligi Taluk was submitted for the first time on 07/09/2019. Had this been a genuine document, it would have been submitted immediately after the loss and not eight months later when the RI brought up the issue of the violation of the permit condition.
- ❖ Moreover, the distance between the two places (places of origin and destination) mentioned in LR No.301 is around 500 km which can be easily covered in 9 to 10 hours and shall not take 48 hours.
- ❖ Based on the surveyor's opinion, load challan No.409403 dated 09/01/2019, the spot

survey report & photos, legal opinion and other relevant documents, it is evident that there was a misrepresentation of material fact pertaining to the accident by the complainant. The accident occurred when the IV was used for carrying load between two points in the state of Karnataka, whereas the Countersignature Permit issued by RTO, Karnataka, prohibits such transport.

❖ **Thus it has been conclusively established that at the time of the accident, the vehicle was used for the Chitradurga-Hospet National Highway road work and was carrying sand from Km 351 to Km 340. Such use of the vehicle was in clear breach of the Karnataka Permit condition.**

❖ Thus, there was a gross violation of the policy conditions concerning the description of the accident and usage of the vehicle.

❖ **As per General Exceptions – No.3 (a) of the Policy:**

“The Company shall not be liable under this policy in respect of

3) Any accidental loss damage and/or liability caused sustained or incurred whilst the vehicle Insured herein is being used otherwise than in accordance with the ‘Limitations as to Use’

Limitation as to Use:

The Policy covers use only under a permit within the meaning of Motor Vehicles Act, 1988 or such a carriage falling under Subsection 3 of Section 66 of the Motor Vehicles Act, 1988.

The Policy does not cover use for: Organized Racing, b) Pace Making, c) Reliability Trials d) Speed Testing.

❖ Since there is a violation of the Permit and consequently a breach of the policy, the claim was repudiated as per the exception stated above.

❖ **Specific response to some of the points raised by the claimant in their complaint to the Office of the Ombudsman is as below:**

❖ *The IV was carrying a load of chicken manure from Salem to Bellary.*

RI’s response: This statement is not correct as evidenced by the original load challan, wherein it is stated that IV was carrying earth soil supplied by Stem Infrastructure (the complainant) to themselves. The load challan, spot photos and the spot survey report establish that the vehicle was loaded with earth soil and not chicken manure.

❖ *Spot Surveyor had verified the vehicular documents and stated that everything is valid.*

RI's response: The spot surveyor has mentioned that the accident had taken place on 09/01/2019 at 5.30 AM. He visited the spot on the same day at 4.00 PM and the vehicle was loaded with mud gravel at the time of the accident. Spot photos reflect the same. As per his report, he received copies of vehicular documents only on 06/07/2019 and the spot report was issued on 08/07/2019 due to a delay on the part of the Insured in submitting the documents. Nowhere in the spot survey report, it is stated that the vehicular documents were valid. In fact, the spot surveyor has stated that the Fitness Certificate (FC) of the vehicle was to be verified. The spot survey report and the spot photos are evidence of the fact that the claimant took almost six months to produce the vehicular documents and that the IV was loaded with mud gravel at the time of the accident.

The final surveyor's email dated 28/11/2019 indicates that according to the dealer (the repairer) the claimant (the complainant) was interested in a cashless settlement and the repairs had not been completed at that point in time. Without the completion of the repair work and submission of the repair bills, the final survey report (FSR) could not be submitted. The surveyor suggested in the said mail that in case the complainant agreed to carry out body repairs on "*his own account*" then the FSR can be submitted.

For the surveyor to complete his survey and assessment of the loss, the repairs have to be completed and repair bills submitted. The final surveyor had repeatedly asked the complainant to submit the trip sheet, the translation of FIR and spot photos vide his e-mails dated 29/01/2019, 12/02/2019 and 28/05/2019 and requested them to complete the repairs so that the final survey report could be submitted. It is the role of the surveyor to ask the claimant to expedite the repairs as the final assessment of loss cannot be done till the repair works are completed and the final repair bills submitted to the surveyor. The final surveyor has nowhere admitted liability under the policy. He has only requested the complainant to expedite the repairs so that the assessment of loss could be completed and the final survey report submitted. No document or any other evidence has been produced to show that the surveyor had informed the complainant that the claim would be processed within a week and payment released. The said statement of the complainant is not true.

❖ *The surveyor and the RI are deliberately trying to repudiate the claim.*

RI's response: The claimant has made false allegations just to get his claim settled. Enough references have been given to prove that the claimant kept on changing his

statement with reference to the load challan and the load carried in the vehicle. At no point in time did the RI or the surveyor convey to the claimant or the workshop that the claim is admissible or that the claim will be paid.

- ❖ *The RI had taken 14 months from the date of the accident and 9 months from the date of completion of repair works to reject the claim.*

RI's response: It was the complainant who delayed the entire process. It took close to 6 months to submit the copies of the vehicular documents to the spot surveyor due to which the submission of the spot report got delayed. The final surveyor had to repeatedly follow up with the complainant for submission of the trip sheet, the translation of FIR and the spot photos. Mails were sent in January, February and May 2019 by the final surveyor to the complainant for submission of these documents. As a result, the FSR could be submitted only in July 2019. The claim was scrutinized after receipt of the FSR and that is when the issue of violation of the permit cropped up. A clarification thereon was sought from the complainant and they responded on 07/09/2019. Based on the clarification received, an opinion was sought from the final surveyor and an independent surveyor.

In the meantime, the complainant visited the RI's office in mid-November 2019 and submitted some additional documents.

At this stage, the matter was referred for legal opinion and the claim was repudiated. The delay on the part of the complainant in submitting the documents and submitting them in a piece-meal manner had only delayed the entire claim process.

- ❖ In view of the above submissions, it is prayed that the complaint may please be dismissed.

22. Reason for Registration of the Complaint:

The complaint is registered under Rule 13 (1) (b) of the Insurance Ombudsman Rules, 2017, which deals with "*Any partial or total repudiation of claims by the life insurer, General insurer or the health insurer*".

23. Documents placed before the Forum:

- ✓ Written Complaint dated 06/11/2020 to the Insurance Ombudsman
- ✓ RI's claim repudiation letter dated 24/02/2020
- ✓ Complainant's representations dated 23/03/2020 and 06/11/2020 to the RI

- ✓ Consent (Annexure VI A) submitted by the complainant
- ✓ Self-contained Note (SCN) of the RI dated 02/12/2020
- ✓ Copy *GCV Public Carrier Package* Policy with terms & conditions
- ✓ Claim form dated 22/01/2019
- ✓ Permit issued by Regional Transport Authority (RTA), Tambaram
- ✓ Permit issued by Karnataka State Transport Authority (KSTA)
- ✓ E-mail dated 07/09/2019 of the complainant to the RI
- ✓ Delivery Challan dated 07/01/2019 of Vinayaga Transport, Salem
- ✓ Image of the Check Post seal of RTO, Hosur (without date)
- ✓ Weigh Bridge Slip dated 07/01/2019 of Sri Raghavendra Weigh Bridge, Mecheri, M Kalipattai
- ✓ Cleaner's statement to the Police
- ✓ Copy of FIR no. 006/2019 in PS Kudligi
- ✓ Final surveyor's follow-up e-mails dated 12/02/2019, 28/05/2019 & 04/06/2019
- ✓ Estimate dated 14/01.2019 and Tax Invoice dated 31/05/2019 of KUN Commercial Vehicles Private Limited, Chennai
- ✓ Invoice no. 498 dated 24/06/2019 of Sri Sabari Body Builders
- ✓ Load Challan Nos.409402, 409403 & 409404, dated 09/01/2019
- ✓ Independent opinion of Mr A R Ramesh, surveyor dated 26/08/2019
- ✓ Opinion dated 23/12/2019 of Advocate Mr M B Raghavan
- ✓ Spot survey report of Mr Khadeer Ahmed dated 08/07/2019
- ✓ Final survey report of Mr Surya Kumar dated 15/07/2019
- ✓ Opinion dated 15/10/2019 of the final surveyor

24. Result of the hearing (Observations & Conclusion):

16. Because of the prevalent COVID 19 pandemic situation, the hearing was conducted through VC on 21/01/2021, with the consent and participation of both the complainant and the RI.
17. The Forum records its displeasure over the lack of response by the RI to the representation made by the complainant. It is hoped that the insurer will strengthen its customer grievance redressal mechanism and avoid such lapses in future.
18. The subject matter of the dispute is the repudiation of the complainant's Motor Own Damage (OD) claim towards the accidental damage sustained by the IV on the

ground that there was a violation of the permit. The alleged violation was in respect of the permit issued by Karnataka State Transport Authority (KSTA) and the condition therein that the IV shall not be used for carrying load between two places in Karnataka.

19. The RI proved that at the time of the accident, the vehicle was used for the Chitradurga-Hospet National Highway Road work in Karnataka State and was carrying sand from KM 351 to KM 341, through various documents such as the relevant load challan, claim form and the FIR. Thus the violation of the permit issued by KSTA is established.

20. Considering General Exception no. 3(a) of the Policy and the *Limitations as to Use* cited earlier, the Forum concludes that the RI's repudiation of the claim is in order.

21. The complainant's submission that the IV was used for transporting chicken manure from Tamilnadu to Karnataka at the material time of the accident and hence there is no violation of the permit, is not convincing as such a submission was made by them for the first time only in September 2019, nearly 8 months after the accident and after coming to know of the RI's intent to reject the claim on the ground of permit violation. In the process, they tried to negate the contents of the FIR and the firm's own declaration as part of the claim form. The Forum sees no reason to disbelieve the contents of the FIR. If the cleaner had made an incorrect statement to the police as alleged by the complainant, they should have taken immediate steps to have the same rectified. But they did not do so. The complainant's contention that the surveyor obtained a load challan of his choice from the complainant's office/staff sounds far-fetched.

22. Post-hearing, the Forum received the spot photos in colour from the RI which show that the IV was carrying earth soil and not manure as claimed by the complainant.

23. The Forum is also satisfied that the repudiation of the claim for violation of the permit is consistent with the industry practice and is also in accordance with the claims manual of the RI.

AWARD

Taking into account the facts & circumstances of the case and the submissions made by both the parties, the Forum concludes that the repudiation of the claim by

the respondent insurer is justified and does not warrant its intervention.

Thus, the complaint is **not allowed**.

25. If the decision of the Forum is not acceptable to the complainant, it is at liberty to approach any other Forum/Court as per laws of the land against the respondent insurer.

Dated at Chennai on this 26th day of February 2021

(M Vasantha Krishna)
INSURANCE OMBUDSMAN
FOR THE STATE OF TAMIL NADU AND PUDUCHERRY

PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF RAJASTHAN
UNDER THE INSURANCE OMBUDSMAN RULES, 2017
OMBUDSMAN – MS. SANDHYA BALIGA
CASE OF MR. SUNIL AGARWAL
V/S
FUTURE GENERALI INDIA INSURANCE COMPANY LIMITED.
COMPLAINT REF: NO JPR- G- 016-2021-0148

AWARD NO: IO/JPR/GI/A/2021/00

1.	Name & Address of the Complainant	Sh Sunil Agarwal, Ajmer
2.	Policy No: Type of Policy Duration of policy/Policy period IDV/Sum Insured	V7506465 4Wh Motor package policy 05.09.2020 to 04.09.2021 Rs. 13,26,675/-
3.	Name of the insured Name of the policy holder	M/S Agarwal Minerals –proprietorship firm M/S Agarwal Minerals
4.	Name of the insurer	Future Generali India Insurance Company Limited
5.	Date of Repudiation	NA
6.	Reason for repudiation	NA
7.	Date of receipt of the Complaint	12.01.2021
8.	Nature of complaint	Deficiency in services- withheld of benefits for own Damage Claim
9.	Amount of Claim	NIL
10.	Date of Partial Settlement	NA
11.	Amount of relief sought	Extending of policy for the days the policy was withdrawn for own Damage
12.	Complaint registered under Rule no: of IOB rules	13 i (C)
13.	Date of hearing/place	04.02.2021 / Jaipur Video conferencing Go to meeting ID 419 190 045

14.	Representation at the hearing	
	• For the Complainant	Mr Sunil Agarwal
	• For the insurer	Mr. Lokesh Vyas
15	Complaint how disposed	Award
16	Date of Award/Order	08.02.2021

17) Brief fact of the case

Mr.Sunil Agarwal :(herein after referred to as the complainant) had filed a complaint against the decision of **Future Generali India Insurance Company Limited** (herein after referred to as the respondent Insurance Company) alleging withdrawal of the benefits of own Damage in respect of insured vehicle .

18) Cause of Complaint:

(a).Complainant's argument: The proprietorship firm M/s Agarwal Minerals was having vehicle RJ 01CD 2984 Jeep Compass covered under 4Wh Motor package policy NoV7506465 for the Period 05.09.2020 to 04.09.2021 for Sum Insured of Rs.13.26 lakh from Future Generali India Insurance Co Ltd. The complainant stated in his complaint letter that he got his motor

policy renewed as detailed below on 02.09.2020 after paying insurance premium of Rs. 26,426/- for the duration of one year with commencement date 05.09.2020. The complainant had previous insurance from Royal Sundram Insurance policy wef 2017 and in the year 2019 he was eligible for 25% NCB. On 3rd November 2020, Future Generali sent him a recovery letter in respect of wrong declaration of NCB eligibility. The Insurance Company informed that they were stopping all comprehensive and zero depreciation benefits of the policy with immediate effect and No claim would be covered under the policy. The Insurance Company did not provide any reason for the withholding of the benefits. The complainant contacted the previous insurer Royal Sundaram for NCB confirmation and the same was sent to the respondent insurer along with all the past insurance policies. The Insurance Company did not responded to the mails of the complainant and after about a month a response was received that there was a technical glitch due to which the error occurred and Future Generali was reinstating coverage back. Aggrieved, he requested the insurer for extending the coverage for the period of suspension of comprehensive coverage and zero depreciation benefits, including its GRO to reconsider the same, but failed to get any relief. Thereafter, he preferred a complaint to this forum for resolution of his grievance.

(b).Insurer's argument: - The insurer stated in its SCN dated 26.01.2021 that the insured had suggested certain changes in the policy as date of inception was wrongly mentioned in it and the policy was issued for the period 05.09.2020 to 04.09.2021. The replaced policy was provided to the insured on 15.09.2020. On 3rd October NCB confirmation was sent to the previous insurer Royal Sundaram which was replied by them on 20.10.2020 stating that they had not provided NCB discount on the previous policy. Subsequently the insurer sent mail to the insured for wrong NCB declaration and requested him to remit the NCB recovery premium. On 08.11.2020 the insured shared letter regarding NCB confirmation

from previous insurer. After verifying the NCB from previous insurer by the respondent it was confirmed by Royal Sundram that there was technical glitch from their side as they had earlier confirmed that no NCB was availed by the insured in the previous policy. After getting confirmation an endorsement was sent incorporating 35% NCB discount on the premium.

The Insurance Company submitted that the insured was informed through mail that the own damage section of the policy was kept on hold due to wrong declaration of NCB by the former insurance Company. Liability cover was mandatory hence the same was active. The Insurance Company submitted that they had not intentionally kept OD section on hold at their end, there was technical glitch from earlier Insurances Company.

19) Reason for Registration of Complaint: - Case of withhold of own damage cover and zero depreciation facility to the insured vehicle for one month approx.

20)) The following documents were placed for perusal.

- a) Complaint letter
- b) Policy copy and policy conditions,
- c) NCB confirmation mail and letter
- d) Form VI A duly signed by the complainant.
- e) SCN and Annex VII A duly signed

21) **Result of hearing with both parties (Observations and Conclusion) :-** Both the parties appeared in the personal hearing through videoconferencing go to meeting on 04.02.2021 and reiterated their submissions. The complainant submitted that the Insurance Company unilaterally stopped the own damage coverage for the insured vehicle and there was no wrong information regarding NCB allowed by the previous insurer. The Insurance Company submitted that the previous insurer of the insured vehicle Royal Sundaram had wrongly informed of NCB available in the current policy. Subsequent to the mail from the previous insurer, the action was taken. The Insured was informed that till the NCB recovery was effected the own damage section would not be active. The Insurance Company submitted that subsequent to the mail dated 08.11.2020 from the previous insurer regarding correct NCB entitlement endorsement was incorporated on 24.11.2020 and the effective date of endorsement was 05.09.2020 which was the date of inception of the policy. The Insurance Company also submitted that the insured had lodged the claim on 27.11.2020 which was settled by the insurer and the liability was not denied on the ground of wrong NCB declaration.

I have perused the documents placed on the record and submissions made during the personal hearing. I find that there was no discrepancy observed in the act of the insurance Company. The insurance Company incorporated the endorsement for allowing NCB @35% wef 05.09.2020 i.e. the date of inception of the policy. The Insurance Company also settled the claim which was reported in the month of November 2020 and had not denied the liability on the grounds of wrong NCB declaration.

In view of the above, I find no reason to interfere with the impugned order. The complaint is dismissed.

Accordingly, the complaint is hereby dismissed.

AWARD

Taking into account the facts and circumstances of the case and the submissions made by both the parties during the course of hearing, the complaint is hereby dismissed.

22. The attention of the Complainant and the Insurer is hereby invited to the following provisions of Insurance Ombudsman Rules, 2017:

- c. According to Rule 17(5) of Insurance Ombudsman, A copy of the award shall be sent to the complainant and the insurer named in the complaint. Rules, 2017.

Place: Jaipur.
Dated: 08.02.2021

SANDHYA BALIGA
INSURANCE OMBUDSMAN

**PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, STATE OF RAJASTHAN
UNDER THE INSURANCE OMBUDSMAN RULES, 2017
OMBUDSMAN – MS. SANDHYA BALIGA
CASE OF VIKAS JEPH V/S UNITED INDIA INSURANCE COMPANY LIMITED.
COMPLAINT REF: NO JPR- G- 051- 2021-0144**

AWARD NO: IO/JPR/GI/A/2021/

1.	Name & Address of the Complainant	Mr Vikas Jeph
2.	Policy No: Type of Policy Duration of policy/Policy period IDV	1403013118P114914644 Motor Policy 24.02.2019 to 23.02.2020 Rs.10,43,511/-,
3.	Name of the insured Name of the policy holder	M/S Maharaj Vinayak Society M/S Maharaj Vinayak Society
4.	Name of the insurer	United India Insurance Company Limited
5.	Date of Repudiation	03.03.2020
6.	Reason for repudiation	Loss is out of scope of the policy
7.	Date of receipt of the Complaint	06.01.2021
8.	Nature of complaint	Non settlement of Motor Claim
9.	Amount of Claim	Rs. 10,43,511/-
10.	Date of Partial Settlement	NA
11.	Amount of relief sought	Rs. 10,43,511/-
12.	Complaint registered under Rule no: of IOB rules	13 i (b)
13.	Date of hearing/place	22.02.2021 / Jaipur Video conferencing Go to meeting
14.	Representation at the hearing	
	• For the Complainant	Mr Vikas Jeph
	• For the insurer	Mr.L N Soni, Dy Mgr

15	Complaint how disposed	Award
16	Date of Award/Order	22.02.2021

19) **Brief Facts of the case Mr Vikas Jeph :-** (herein after referred to as the complainant) had filed a complaint against the decision of **United India Insurance Company Limited** (herein after referred to as the respondent Insurance company) alleging Non Settlement of Motor claim.

20) Cause of the Complaint :- Non settlement of Motor claim

(a)**Complainant's Arguments:-** The complainant, Mr Vikas Jeph, (sole proprietor) submitted that his Renault car no RJ 14 CU 5678 was insured with United India Insurance company Ltd vide Policy no 14030113118P114914644 for the period of 24.02.2019 To 23.02.2020 favouring M/S Maharaj Vinayak Society, the proprietorship firm . The Fire broke in vehicle engine of subject vehicle on 05.08.2019. The intimation about the claim was submitted to the Insurance Company and he shifted the vehicle to the workshop for survey and repairing of the vehicle. The vehicle is lying in company authorized service station since August 2019. The Insurance Company repudiated the claim on 03.03.2020 as the cause of damage was outside the scope of the policy. He also requested GRO to reconsider the claim but failed to get any relief, he preferred a complaint to this forum for resolution of his grievance.

(b) Insurer's argument: - The insurer United India Insurance Company Ltd. stated in its SCN letter dated 25.01.2021 that Renault car no RJ 14 CU 5678 was insured vide Policy no 1403013118P114914644 for the period of 24.02.2019 To 23.02.2020. The Insured had taken the captioned policy for Rs. 10,43,511/- Sum Insured. The vehicle suffered a loss due to engine compartment fire on 05.08.2019. As per survey report the vehicle gear box and its wiring harness was having problem since 27.11.2017 as per job no ROJAJE18006214 dated 27.11.2017. It was recommended by Renault to replace its wiring harness and gear box but it was refused by the customer. The root cause of fire was its faulty wiring which was recommended for replacement by dealer. The gear box problem was again mentioned during its next service done vide job noROJAJB18009625 dated 12.01.2018. Hence it was proved that fire caused to insured car arising out of gross negligence and deliberate ignorance by the owner of car since as per manual (vehicle maintenance ignorance of required maintenance) and repair of vehicle is dangerous thus failure to carry out necessary repairs on part of insured has caused fire to insured vehicle. As per condition no 4 of policy insured shall take all reasonable steps to safe guard the vehicle loss or damage and to maintain it in efficient condition. The claim was repudiated due to outside the scope of the policy.

21) Reason for Registration of Complaint: - Case of Non settlement of Motor accident claim

20) The following documents were placed for perusal

- f) Complaint letter
- g) Policy copy, GRO mail, Claim form
- h) Correspondence with an insurer, survey report, Renault vehicle history

- i) Form VI A duly signed by the complainant.
- j) SCN and a form VIIA duly signed by the Insurance Company

21.Result of hearing with both parties (Observations and Conclusion):- Both the parties appeared in the personal hearing through Go to Meeting video conferencing and reiterated their submissions. The complainant submitted that his Renault car RJ 14 CU 5678 insured with the respondent Insurance Company was damaged as Fire broke in vehicle engine of subject vehicle on 05.08.2019. The complainant shifted the vehicle to the workshop for survey and repairing of the vehicle. The Insurance Company repudiated the claim since as per survey report the vehicle gear box and its wiring harness was having problem since 27.11.2017 and there was gross negligence on the part of the insured. The complainant submitted that he got the vehicle repaired

outside repairer. The complainant submitted that his vehicle was having the mileage of 16000 in a satisfactory manner and after running a more then 16,000 km the loss was occurred. Insurance company representative submitted that the vehicle suffered a loss due to engine compartment fire on 05.08.2019. There was gross negligence on the part of the insured as he did not get gear box replaced and there was electrical and mechanical breakdown which was excluded from the policy. As per survey report the vehicle gear box and its wiring harness was having problem since 27.11.2017 and it was recommended by Renault to replace its wiring harness and gear box but it was refused by the customer. The root cause of fire was its faulty wiring which was recommended for replacement by dealer. The gear box problem was again mentioned during its next service done dated 12.01.2018 which was refused by the insured.

I have considered the documents placed on the record and oral submissions made during the personal hearing. During the hearing the complainant submitted that the charges as informed by the repairer were Rs. 7.50 lakh towards gear box replacement. In view of the high price the insured opted for repair from the local repairer in the year 2018-19. The complainant submitted that his vehicle was running satisfactorily till the said damage on 05.08.2019. I find that the damages were not disputed by the Insurance Company. The insured got repaired the vehicle from local repairer in January 2018. The car seemingly been operational since then..

In view of the above facts, the insurance company is directed to settle the claim after deducting 25% of admissible claim amount on sub standard basis.

Accordingly, an Award is passed with the direction to the Insurance Company to settle the claim after deducting 25% of admissible claim on sub standard basis.

AWARD

Taking into account the facts and circumstances of the case and the submissions made by both the parties during the course of hearing, the Insurance Company is directed to settle the claim after deducting 25% of admissible claim on sub standard basis.

22. The attention of the Complainant and the Insurer is hereby invited to the following provisions of Insurance Ombudsman Rules, 2017:

- a) According to Rule 17(5) of Insurance Ombudsman Rules, 2017, a copy of the award shall be sent to the complainant and the insurer named in the complaint.
- b) As per Rule 17(6) of Insurance Ombudsman Rules, 2017, the insurer shall comply with the award within 30 days of the receipt of the award and intimate compliance of the same to the Ombudsman.

Place: Jaipur
Dated: 23.02.2021

SANDHYA BALIGA
INSURANCE OMBUDSMAN

**PROCEEDINGS BEFORE
THE INSURANCE OMBUDSMAN, GUWAHATI
(UNDER RULE NO: 16(1)/17 of INSURANCE OMBUDSMAN RULES 2017)
OMBUDSMAN – K.B. SAHA**

CASE OF: : Complainant MRS DIPALI KALITA VS SHRIRAM GENERAL INSURANCE CO.LTD

COMPLAINT REF. NO: GUW- G-042-2021-0056 : Award No

1.	Name & Address of the Complainant	MRS.DIPALI KALITA
2.	Policy No: Type of Policy Duration of policy/Policy period	3240163120002197 MOTOR COMMERCIAL VEHICLE POLICY 05/09/2019 TO 04/09/2020
3.	Name of the insured Name of the policyholder	MRS DIPALI KALITA MRS.DIPALI KALITA
4.	Name of the insurer	SHRIRAM GENERAL INS. COMPANY LIMITED
5.	Date OF OCCURANCE OF LOSS/CLAIM	11/09/2019
6.	DETAILS OF LOSS	RS.170857/-
7.	REASON FOR GRIEVANCES	Rules 17(6) of the Ins ombudsman Rule 2017
8.a	Nature of complaint	DELAY IN SETTLEMENT
8.b	Date of receipt of the complain	15/12/2020
9.	Amount of Claim	Rs.170857/-
10.	Date & Amount of Partial Settlement	NIL
11	Amount of relief sought	Rs.170857/-

12.	Complaint registered under Rules of Insurance Ombudsman 2017	13(1)(b)
13.	Date of hearing/place	O/o Insurance Ombudsman Ghy19/01/2021
14.	Representation at the hearing	
	• For the Complainant	MR.BHASKAR BARMAN(BROTHER OF THE COMPLAINANT)
	• For the insurer	MR.PEEYUSH JAIN (ONLINE)
15	Complaint how disposed	Through personal Hearing
16	Date of Award/Order	04/02/2021

17) Brief Facts of the Case: Mrs.Dipali Kalita, the complainant had a Maruti Suzuki bearing Registration No.AS-01-GC-4556 used as commercial vehicle. The vehicle was insured with Shriram General Insurance Co. Ltd. On 11/09/2019, the vehicle met with an accident near Silpukhuri police station at about 11pm. As stated in the police report that at the time of accident driver Mr Kamal kalita was driving the car. One unknown truck which came from opposite direction, hit the front side of the swift dzire car. At the same time one unknown motor cycle came at high speed from same direction and overtook the car from wrong side and hit the car from left side and fled away from the spot. Due to the accident no person sustained injury but the vehicle got partially damaged. Mrs Kalita submitted the claim to the insurance co. but the insurance co. has not settled the claim till date. So Mrs Kalita approached to us for settlement of her claim. On the other hand insurance co sent 3 letters to the claimant dated 17/09/19,18/11/19 & 10/12/19. But the claimant did not give any response. On 26/12/19 insurance co. sent the final letter to provide documents. The claimant sent the reply of this letter on 19/06/2020.

18 a) Complainant's Argument: - Mrs Kalita stated that she had submitted all the required documents on 19/06/2020 but her claim is not entertained by insurance co. till date.

18b) Insurers' argument: Insurance co submitted in their SCN that after receiving the intimation of accident, company registered the case and appoint IRDA approved surveyor Mr. Rahul Verma to carry out the survey of the vehicle.

It is further submitted that appointed surveyor has submitted his report of Rs.65,962 after deducting applicable depreciation year of manufacture 2015, IMTs and policy terms and conditions but subject to repairing of damaged vehicle and submission of pending documents.

It is further submitted that even after various reminders via call and letters dated 17/09/2019,19/11/2019,10/12/2019 &26/12/2019 but till date insured didn't start the repair of the vehicle and didn't provide the below mentioned documents and clarification.

1. Spot survey not done reason required
2. Any proof of accident
3. Vehicle movement before accident
4. FIR copy
5. Passenger details
- 6.Towing bills
7. Medical record of injured person

It is further submitted that even after various reminders issued till date insured didn't start the repair of the vehicle and didn't provide the claim documents and clarification. Insurance co. was unable to process the claim for not receiving the required documents to process the claim.

19) Reason for Registration of Complaint: -: Scope of the Insurance Ombudsman Rules 2017 (Rule after proper approval from honorable ombudsman13 (1) (b).

20) The following documents were placed for perusal.

- a) Complaint letter
- b) Annexure – VI A
- c) Copy of the policy
- d) Annexure VII A
- e) S C N

Result of hearing with both parties (Observations & Conclusion):- Both the parties were called for hearing on 19/01/2021 . The complainant was represented by Mr. Bhaskar Barman, brother of the complainant and the insurer was represented by Mr. Peeyush Jain (online). Insurer was given 7 days' time to submit final survey report. We informed the insurer through mail to submit Final Survey report within 25/01/2021 . On 25/01/2021 insurer requested us to allow them few more days to submit the final survey report. But even after 10 days of second request they could not submit the final survey report. Today, 04/02/2021 , they send us the initial survey report of surveyor which they have mentioned in their SCN.

DECISION

We have taken into consideration the facts & circumstances of the case from the documentary as well as verbal submission made by the claimant and representative of the Insurance co. We have also gone through the records.

During the course of hearing the representative of the insurance co. submitted that for some required documents like spot survey report, FIR copy was not submitted and so they could not settle the claim. The forum clarified that all these documents are irrelevant to this case of accident. All their queries 1] Sport Survey, 2] Proof of Accident, 3] Vehicle movement before accident, etc all are clarified in the Police Report of Chandmari Police Station with GDE No-192 Dt-11/09/2019. Complainant also clarified these points on 26/12/2019 & 19/06/2020. Both the documents they have submitted to this forum. They attached the Towing Bill also and clarified that, no passenger except driver was there at the time of accident and as there was no Third Party involved, No FIR has been lodged and no major injury was involved. Hence it is clear the claimant has properly submitted all documents and clarified all queries.

The points raised in the SCN that; the vehicle has not yet been repaired is not true. On 24/03/2020, Mono Motor Works mailed to insurer that, they have finished the repair job and waiting for the claim amount.

The claimant is not in a position to take back the car from workshop because she is suffering from cancer & in need of ample money. The Forum also kept in view the following points while taking the decision.

1) During mail conversation insurer stated that cashless claim can only be paid to private vehicle. Though this vehicle is a commercial vehicle, the repair of the vehicle had been carried out at a Maruti Authorized workshop, which is very much authentic and reliable. So, insurer can easily treat it as cashless claim and handover the claim amount to MONO MOTOR WORKS, Maruti Authorised Service Station (0966) , Guwahati.

2) It is a commercial vehicle, so complainant faced financial loss for about a year for unreasonable delay on the part of insurer on flimsy excuses. Insurer must pay interest for this period.

3) Claimant is a cancer patient. Insurance co. was expected to settle this claim much earlier without harassing a Cancer patient with some meaningless queries for more than a year. Insurer has unnecessarily kept the claim pending with some silly queries for more than 1 year. Not only that, in spite of instruction from this forum, they could not submit the final survey report. As no final survey report could be produced by insurer, we have to rely on the Bill submitted by Mono Motor Works of Rs.1,70,857/-.

Under the circumstances & in order to ensure fairness to the policy holder the Forum directs the insurance co. to pay the full claim amount of Rs.1,70,857/- along with interest 2% above the Bank rate from March-2020 (Month of repair) to MONO MOTOR WORKS, Maruti Authorised Service Station (0966),Guwahati, where the repair works had been carried out. Hence the complaint is treated as closed.

The attention of the Complainant and the Insurer is hereby invited to the following provisions of Insurance Ombudsman Rules, 2017.

As per Rule 17(6) of the said rules the Insurer shall comply with the Award within 30 days of the receipt of the award and intimate compliance of the same to the Ombudsman.

Dated at Guwahati, the 4th Day of February, 2021

K.B.Saha
Insurance Ombudsman

AWARD NO.IO/KOC/A/GI/0120/2020-2021

PROCEEDINGS OF THE INSURANCE OMBUDSMAN, KOCHI

(UNDER RULE NO. 13 1(b) READ WITH RULE 14 OF

THE INSURANCE OMBUDSMAN RULES, 2017)

Complaint No. KOC-G-018-2021-0176

PRESENT: Ms. POONAM BODRA

INSURANCE OMBUDSMAN, KOCHI.

AWARD PASSED ON 16.02.2021

1. **Name and Address of the complainant** : **Mr. Milan P L**
16/69 A, Pradeep Mandir, A K Xavier
Road, Kochi-682005
2. **Policy Number** : **2317203177621400000**
3. **Name of the Insured** : **Mr. Milan P L**
4. **Name of the Insurer** : **HDFC ERGO General Insurance**
Company Ltd.

5. **Date of receipt of Complaint** : **17.11.2020**
6. **Nature of complaint** : **Extension of vehicle insurance**
7. **Amount of relief sought** : **--**
8. **Date of hearing** : **13.01.2021**
9. **Parties present at the hearing**
- a) **For the Complainant** : **Mr. Milan P L (online)**
- b) **For the Insurer** : **Mr. Neeraj Shivangikar (online)**

AWARD

This is a complaint filed under Rule 13 1(b) read along with Rule 14 of the Insurance Ombudsman Rules, 2017. The complaint is regarding extension of vehicle insurance. The complainant, Mr. Milan P L is the policyholder.

1. Averments in the complaint are as follows:

The Complainant submitted that his vehicle KL13789 was insured with the respondent insurer. He had not conducted any service and it was laid up for the period from 21.05.2020 to 21.10.2020 due to lockdown resulting from Covid-19. He had got the approved with the whomsoever it may concern" certificate from the JRTO, Cherthala. The complainant visited the respondent insurer's office on 30.10.2020 for the insurance validity extension with the original RC, Original insurance and the letter from RTO. His request was rejected stating that there was no such option in their company's policy. Then he sent a complaint to the respondent insurer via Email. Then he got a reply that the same is not applicable on the company terms and conditions. The complainant has approached this forum for getting his vehicle insurance extension.

2. The Respondent Insurer entered appearance and filed a self-contained note. It is submitted that the Complainant /Insured had availed Goods Carrying vehicle policy vide policy No 2317 2031 7762 1400 000 for the period from 16/Dec/2019 to 15/Dec/2020 for his vehicle bearing Reg No KL 1-3789- TATA Truck for an IDV of Rs. 7,91,868/- . The liability of this respondent is subject to the various terms and conditions and exclusions incorporated in the subject policy.

That the averment of the Insured is that, his vehicle was laid up since 21/May/2020 to 21/October/2020 due to lockdown resulting from COVID 19. It is further averment that, he had requested this Insurer to extend the period of insurance for the said period. This Insurer had replied stating, we would not be in a position to extend the validity for the policy issued from 16/Dec/2019 to 15/Dec/2020.

That we wish to confirm that, as on date there is no direction or regulation from the Regulator or any Government authority or court.

That considering the exigency the Regulator IRDAI had issued regulation dated 27/March/2020 wherein the Insurance Regulatory and Development Authority of India has issued Order dated 27th March, 2020 notifying that the validity of premium rates for Motor Third Party Liability Insurance Cover set out for the year 2019-20 stands extended beyond 31st March, 2020 until further notice. Accordingly, all insurers shall continue to charge the rates currently being charged for Motor Third Party Liability Insurance Cover from 1st April, 2020 onwards until further orders.

Regulation dated 02/April/2020 from IRDAI

Re: Premium payment for renewal of Motor Third Party Insurance policies falling due during the lockdown period (25th March, 2020 to 14th April, 2020) as a result of COVID 19 situation

The Department of Financial Services, Government of India, has issued notification dated 1st April, 2020 on the captioned matter in public interest.

Vide the notification, the Central Government has directed that policyholders whose motor vehicle third party insurance policies fall due for renewal during the period on and from 25th March, 2020 up to 14th April, 2020 and who are unable to make payment of their renewal premium on time in view of the prevailing situation in the country as a result of COVID 19 are allowed to make premium payment for renewal of policies to their insurers on or before 21st April, 2020 to ensure continuity of the statutory motor vehicle third party insurance cover. Though the direction from the Regulator was only with respect to extension of renewal of the premium there is no direction on extension of the period of Insurance due to the COVID 19.

That, the insurers wouldn't be absolved of claim risks when the vehicles are parked and not in use.

“The clause is called 'laid-up' vehicle clause”. “A common misconception is that a fleet of vehicles when parked and not in use doesn't command any insurance risk. This is not true; there are risks of damage due to natural disaster, maintenance issues, fire risks and even concerns of theft that are still there.” Moreover, the insurance regulator had given vehicle owners facing liquidity issues an extension on renewal for policies expiring in April, he said. Further we wish to state that, most of all general insurance companies have already suffered heavy revenue losses on account of reduced motor premium collections in the lockdown months of April and May further the Muted automobile sales will also likely impact their premium income

for much for the ongoing fiscal year. In the first two months of the fiscal year, motor premiums declined 36% from a year earlier, data from the General Insurance Council showed. While the decline was 50% in April, it was 23% .

The Indian Motor Traffic reads:

IMT. 11.A. VEHICLES LAID UP (Lay up period declared)

Notwithstanding anything to the contrary contained herein it is hereby understood and agreed that from .../ .../..... to.../ .../..... the vehicle insured is laid up in garage and not in use and during this period all liability of the insurer under this policy in respect of the vehicle insured is suspended **SAVE ONLY IN RESPECT OF LOSS OR DAMAGE TO THE SAID VEHICLE CAUSED BY FIRE EXPLOSION SELF-IGNITION OR LIGHTNING OR BURGLARY, HOUSEBREAKING, THEFT OR RIOT STRIKE MALICIOUS DAMAGE TERRORISM OR STORM TEMPEST FLOOD INUNDATION OR EARTHQUAKE PERILS.**

IMT. 11. B. VEHICLES LAID UP (Lay up period not declared)

Notwithstanding anything to the contrary contained herein it is hereby understood and agreed that as from / /..... the vehicle no. insured hereunder is laid up in garage and not in use and liability of the insurer under this policy in respect of the said vehicle is suspended **SAVE ONLY IN RESPECT OF LOSS OR DAMAGE TO THE SAID VEHICLE CAUSED BY FIRE EXPLOSION SELF-IGNITION OR LIGHTNING OR BURGLARY, HOUSEBREAKING, THEFT OR RIOT STRIKE MALICIOUS DAMAGE TERRORISM OR STORM TEMPEST FLOOD INUNDATION OR EARTHQUAKE PERILS.**

Hence, it is apparent supra, even in case of Lay Up Period in garage and not in use the Liability on the Insurer will be suspended save only to certain risk. Herein the vehicle was stationed due to the COVID 19 Exigency. However, as on date there is no clear direction or regulation from the Regulator /Judicial body or any statutory authority to provide an extension of the insurance as such this Insurer is in no position to entertain the request of the complainant. The company reserves its right to adduce additional evidence as and when required.

3. I heard the Complainant and the Respondent Insurer. The Complainant submitted that his vehicle was laid up during the lockdown period. The complainant has submitted a certificate from the RTO stating that the vehicle was laid up for a period of 5 months from 21.05.2020 to 21.10.2020. The Respondent Insurer submitted that the direction from the Regulator was only with respect to extension of renewal of the premium there is no direction on extension of the period of Insurance due to the COVID 19.

4. On scrutiny of the documents it is seen that the complainant has sought for policy extension with effect from 21.05.2020 to 21.10.2020. The complaint is silent about the period from 24.03.2020 to 20.05.2020 wherein strict lockdown was imposed by the Government. He has submitted a certificate to the effect that his vehicle has not conducted service and was laid up since 21.05.2020 to 21.10.2020 due to lockdown resulting from pandemic Covid-19. This certificate was issued on 22.10.2020. The respondent insurer is not ready for any extension of policy period as their policy terms and conditions are not allowing any such extension. For allowing any extension for laid up by this forum, it is compulsory as per GR 31 of the MV Act that the insured should have made prior intimation to the insurance company about the laid up . Here it is learnt that the complainant has not given any written intimation to the insurance company prior to laid up of the vehicle. Only after 22.10.2020, the complainant has approached for extension, that too for a period after

the compulsory lockdown imposed by the Government. As I am not convinced with the complainant's plea and feeling that the respondent's insurer's contention is genuine, I do not want to interfere in to the decision of the respondent insurer to deny the extension of policy period.

In the result, an AWARD is passed for Dismissal of the complaint.

Dated this the 16th day of February 2021.

Sd/-

(POONAM BODRA)

INSURANCE OMBUDSMAN

AWARD NO. IO/KOC/A/GI/0125/2020-2021

PROCEEDINGS OF THE INSURANCE OMBUDSMAN, KOCHI

(UNDER RULE NO. 13 1(i) READ WITH RULE 14 OF

THE INSURANCE OMBUDSMAN RULES, 2017)

Complaint No. KOC-G-049-2021-0185

PRESENT: Ms. POONAM BODRA

INSURANCE OMBUDSMAN, KOCHI.

AWARD PASSED ON 24.02.2021

1. **Name and Address of the complainant** : **Mr. Rajan K S**
'Manimandiram', Chitranjali Junction,
Irumpanam, Trippunithura, Ernakulam
682309

2. **Policy Number** : **760100131190100002864**

3. Name of the Insured : Mr. Rajan K S
4. Name of the Insurer : The New India Assurance Co. Ltd.
5. Date of receipt of Complaint : 03.12.2020
6. Nature of complaint : Extension of policy validity
7. Amount of relief sought : --
8. Date of hearing : 29.01.2021
9. Parties present at the hearing
- a) For the Complainant : Consent given
- b) For the Insurer : Mr. Sreejith

AWARD

This is a complaint filed under Rule 13 1(i) read along with Rule 14 of the Insurance Ombudsman Rules, 2017. The complaint is regarding extension of policy validity. The complainant, Mr. Rajan K S is the policyholder.

1. Averments in the complaint are as follows:

The Complainant stated that he is a regular stage carriage permit holder for his vehicle KL 39/F 3292. His vehicle could not be operated due to COVID19 pandemic from 24/3/2020 and is garaged by filing G form intimating non use of vehicle from 24/3/2020. The policy was valid upto 23/7/2020. Field Officer at RTO has certified that vehicle was not in use from 1/4/2020 to 8/11/2020. As per IMT under Insurance Act, 1938 dt. 30/6/2002, Sl. no. 1 (a) para 2, credited return of premium will be deducted from Renewal Premium. The Ins. Co. is of the view that the credited premium shall be accounted from the expiry of the existing policy dated 23/7/2020 and not on the date of renewal of insurance premium as mentioned in the Tariff, which is illegal

and unjustified. He requests that necessary orders may be passed to the effect that the credited premium may be accounted from the date of renewal of the policy after the vehicle has been taken out of the garaged place by cancelling G form(Non Use Intimation Form).

2. The Respondent Insurer entered appearance and filed a self contained note. It is submitted that The policy availed by the insured was a Commercial Vehicle Package Policy with Policy No: 76100131190100002864 covering 2013 model Ashok Leyland Bus. The Policy period was 24.07.2019 to 23.07.2020 and the vehicle was covered for an IDV of Rs 6,50,000/-

The insured vehicle was laid up due to covid situation from 01.04.2020 to 08.11.2020. Insured has given complaint for not giving premium adjustment for the entire laid up period

According to GR.31 “a pro rata return of premium for the period during which the vehicle is so laid up will be credited to the insured after retention of pro rata premium for the lay-up period in the tariff rate for Fire and/or Theft Risks as applicable for the class of vehicle concerned”

As per the Tariff conditions only a return of premium for laid up in the policy period can be given i.e. from 01/04/2020 to 23/07/2020, which was conveyed to insured orally when he applied for the laid up, later a letter was issued from the branch giving the benefits that can be given in the policy he is having.

Also to be noted that as per GR.31 the permit of the vehicles has to be suspended which are undergoing laidup for availing the laidup benefit in insurance policy has been waived of by the company owing to the current situation at RTOs.

3. I heard the Respondent Insurer. The Complainant gave Consent to deal with his complaint on its merits . The Respondent Insurer submitted that they have agreed for extending policy for 114 days from 23/7/2020.

4. I have heard both the sides and perused the documents. The respondent insurer has agreed for extending policy for 114 days from 23/7/2020. The respondent insurer has conveyed this to the complainant on 20/1/2021, besides giving option for adjustment on renewal of the subsequent policy. However , since extension was not effected from 23/7/2020 and since a fresh policy has been taken by the complainant from the respondent insurer, without the lay-up period credit of premium being given by the respondent insurer and since the subsequent policy will be due for renewal much later, I am of the opinion that the complainant should be granted a refund premium now. Accordingly, a pro-rata refund of premium for 114 days less pro -rata premium for the lay-up period as per tariff rate for Fire and/or Theft Risks, as applicable for the class of vehicle concerned, is to be allowed.

In the result, an award is passed, directing the Respondent Insurer to pay pro-rata refund of premium for 114 days less pro -rata premium for the lay-up period as per tariff rate for Fire and/or Theft Risks, within the period mentioned hereunder. No cost.

As prescribed in Rule 17(6) of Insurance Ombudsman Rules, 2017, the Insurer shall comply with the award within 30 days of receipt of the award and intimate compliance of the same to the Ombudsman.

Dated this the 24th day of February 2021.

Sd/-

(POONAM BODRA)

INSURANCE OMBUDSMAN

PROCEEDINGS BEFORE - THE INSURANCE OMBUDSMAN, LUCKNOW
(UNDER RULE NO: 16(1)/17 OF THE INSURANCE OMBUDSMAN RULE 2017)

Mr. Nitish Bhardwaj..... Complainant

V/S

TATA AIG General Insurance Company Limited.....Respondent

COMPLAINT NO:LCK-G-047-2021-0086

ORDER NO. IO/LCK/A/GI/0048/2020-21

1.	Name & Address of the Complainant	Mr. Nitesh Bhardwaj 134, Poonch , Tehsil – Moth Jhansi- 284003
2.	Policy No: Type of Policy Duration of policy/DOC/Revival	015760420 Commercial vehicle Package policy 26.10.2017 to 25.10.2018
3.	Name of the life insured Name of the policyholder	Mr. Nitish Bhardwaj Mr. Nitish Bhardwaj
4.	Name of the insurer	TATA AIG General Insurance Company Limited
5.	Date of Repudiation/Rejection	29.11.2018
6.	Reason for repudiation/Rejection	Concealment of material fact

7.	Date of receipt of the Complaint	27.06.2019
8.	Nature of complaint	Repudiation of claim
9.	Amount of Claim	Rs. 18,60,480/-
10.	Date of Partial Settlement	---
11.	Amount of relief sought	Rs. 18,60,480/-
12.	Complaint registered under Rule	Rule No. 13(1)(b) of Ins. Ombudsman Rule 2017
13.	Date of hearing/place	On 03.02.2021 at Lucknow
14.	Representation at the hearing	
	• For the Complainant	Mr. Nitesh Bhardwaj
	• For the insurer	Mr. Mridul Mishra
15.	Complaint how disposed	Dismissed
16.	Date of Award/Order	03.02.2021

17. Mr. Nitesh Bhardwaj (Complainant) has filed a complaint against TATA AIG General Insurance Company Limited (Respondent) challenging repudiation of his motor claim.

18. Brief Facts of the Case:- The complainant's Tata Truck Hyva no. UP-93-AT-5577 was insured with respondent for period 26.10.2017 to 25.10.2018. On 23.06.2018 the truck was standing on Sarad Enterprises village Chatela Sand Dump Distt- Jalaun (U.P.) when all of sudden it caught fire. Fire brigade was called and local police station was informed. Anyhow fire was put off by fire brigade. Claim intimation was given to the insurer and it was mentioned in claim form that fire took place due to short circuit. The respondent insurance company arranged for survey of the vehicle through a senior surveyor Mr. Salauddin who assessed the loss for Rs. 18,60,480/- on total loss basis. Meanwhile RIC also deputed M/s Perfect Forensic Science Society for investigation of the case. In the light of investigation report the insurer repudiated the claim on 29.11.2018 on the ground of concealment of material facts.

The claim of the complainant which was initially repudiated on 29.11.2018 on the ground of concealment of material fact was reconsidered as per instruction given in Ombudsman's award dated 20.08.2020. After reconsideration, the claim stands repudiated on 28.09.2020 on the same ground. The complaint has again approached this office and has made submissions as under :

- As per complainant, forensic experts Mr. Ramakant Tiwari and Mr. Akshay Singh have nowhere mentioned their special qualifications hence they are not experts in fire origin versions.
- That Perfect Science Society was not licensed either by IRDA or by any Govt. Authority to make fire expert investigations.
- As per test report of I.T.L. Labs, Delhi the debris collected from the spot of fire does not show presence of flammable chemical i.e. petrol, kerosene or diesel [Annexure-XIII].
- The Forensic Science Report has not given and mentioned any explanation that why the origin of fire from short circuit given in Fire Brigade Report is false and wrong.
- As per the complainant the Hyva Truck was a bread earning source for his entire family and only two loan installments were outstanding at the time of loss.

In their SCN/reply, the RIC has submitted that the matter was investigated by Perfect Forensic Science Society Delhi who found the case as highly suspicious and observed that origin of fire might be due to deliberate and planned use of certain flammable and combustible organic materials for initiation of fire. The rubber pipes between cabin and battery chamber were not completely burnt and the paint behind the driver's seat in the cabin was less affected by fire. The paint on the backside and right side of the trolley above the rear tyres had less impact of fire. It suggests the multiple source of fire origin.

The burning pattern of paints on the truck suggests that wind direction was from rear end to front end. If the short circuit had occurred in the cabin then, there should be less impact of fire to the rear end of the Hyva truck due to the wind direction. Discrepancies in the time of fire were also noticed. The claim was repudiated in the light of investigation report on the ground of concealment of material fact and violation of the basic duty of Utmost Good Faith.

In their SCN dated 21.12.2020 the respondents have submitted that as per forensic report the fire had originated from multiple places which could not have been possible without inflammable material. The circumstantial evidences and burning pattern of fire indicate/suggest that the Hyva truck was burnt due to multiple source of fire origin. Surveyor M/s Salahuddin & Associates have also mentioned in their report dated 08.10.2018 that the circumstances of the claim are doubtful and contradictory in nature. Fire loss was not on account of mechanical combustion or electrical failures of any component installed in the engine compartment and cabin area but was on account of malicious damage/deliberate setting of fire to the stationary vehicle.

19. The complainant has filed a complaint letter, annexure VI A, correspondence with respondent and copy of policy document while respondent filed SCN with enclosures.

20. I have heard both the parties at length and perused papers filed on behalf of the complainant as well as the insurance company.

21. Earlier a complaint No:LCK-G-047-1920-0021 was filed by the complainant wherein following order was issued on 20.08.2020 :

“Complaint is disposed off with a direction to the complainant to file his objection, if any, within 30 days from the date of receipt of this order. Thereafter respondents shall process the matter again and dispose off the same within 30 days from the date of filing of objections by the complainant. If the complainant is not satisfied with the decision, complainant is at liberty to approach this forum again.”

Subsequent thereto, complainant again submitted a complaint before with the respondent insurance company on 14.09.2020 which was again repudiated by the respondent vide letter dated 28.09.2020 on the following grounds :

We hereby deny all the allegations as stated in the letter. However, we reiterate our stand as taken in repudiation letter dated 25.09.2018 on the basis of Forensic report wherein it is confirmed that :

- a. *“The loss was not on account of mechanical, combustion and electrical failure of any component installed in the engine compartment and cabin area but*
- b. *Was on account of malicious act/sabotage/deliberate setting of fire to the stationary/parked TATA Hyva truck to the rear tyres independently on both side.*

In view thereof, we regret our inability to entertain this claim. We look at thus as an opportunity lost to serve you.”

Feeling aggrieved with the decision, complainant again moved a complaint with the allegations that Forensic report is not legally admissible. Sh. Ramakant Tiwari, Executive Director and Sh. Akshay Singh, Scientific Officer of Perfect Forensic Science Society have not mentioned their qualifications on the basis of which they have submitted the report. It is further submitted that the samples of burnt debris collected from the spot were sent to ITL Labs Pvt. Ltd., Delhi which is as a government approved lab. It is reported that no trace of any extraneous flammable was found from the debris. Explanation for not finding any

inflammable substance is not acceptable as only water could not wash out the oily substance. Origin of the fire started from front side, cabin dashboard due to short circuit. Front cabin, upholstery, driver/cleaner seats, steering wheel, steering column, dashboard, floorates were completely burnt on fire. All the parts of the truck got fire due to short circuit. Fire spread from front to back side. All the tyres were burnt due to fire in the pressure pipe. Battery

chamber was also burnt. Opinion of Mechanical Expert regarding Brake Actuators was not obtained. There are spaces between left rear tyre and stepney, in between stepney and battery chamber and in between battery chamber and front tyre. There are spaces wherein air was present. How rear tyre was burnt could not be explained by the expert? Headlights, taillights and other parts were burnt which are not explained in the report. Fire brigade team told the complainant at the spot that the fire was caused due to short circuit.

At the very outset, complainant submits that burnt debris collected from the spot was sent to the ITL Labs Pvt. Ltd. New Delhi wherein it was observed that no inflammable petrochemical i.e. petrol, diesel, kerosene oil etc was present at the time of fire. This fact has been dealt in the report wherein it is mentioned that due to high temperature, inflammable substance could not be found from the debris. Report of Perfect Forensic Science Society could have been rebutted by another expert report. Merely stating on oath by the complainant could not negate the findings of the expert. It is settled legal position that although the expert opinion is an opinion admissible under Section 45 of the Indian Penal Act. But at the same time, expert opinion can be controverted by another expert opinion. Thereafter the final view is to be taken by the Court. An expert opinion was filed by the respondent. Initially it was objected that copy of expert opinion is not provided to the complainant. Subsequent thereto in complaint No: LCK-G-047-1920-0021 vide order dated 20.08.2020, copy of expert opinion was provided to the complainant. Now complainant was under legal obligation to rebut the expert opinion by another expert opinion which was not done.

In the expert opinion, extensive reasons are given by the expert which are as under :

- The extensive and characteristic burn patterns have been observed on the exteriors and interiors of the Tata Hyva Truck's cabin, the engine compartment, the battery area and left & right sided wheels suggesting the indication of multiple independent source of fire origin which might be due to deliberate and planned use of certain flammable and combustible organic materials for initiation of fire.

- The forensic examination of fire patterns of the Tata Hyva Truck indicates that ignition and initiation of fire had resulted in multiple fires leading to intense and rapid burning effects thereby indication of intentional fire caused deliberately by someone.
- The rubber pipes between cabin and battery chamber were not completely burnt and the paint behind the driver's seat in the cabin was less affected by fire. The paint on the back side and rightside of the trolley above the rear tyres had less impact of fire. It suggests the multiple source of fire origin.
- The metal shield over the right sided front tyre was found intact and therefore, it could minimize the effect of fire towards the fuel tank.
- As compared with the same model of Tata Hyva Truck, brake actuators were not found intact in their position. They are metallic in nature and tightly fitted with the help of nuts and bolts and could not be dismantle due to heat of fire. Therefore, the insurer should take the mechanical opinion in this regard.
- The burning pattern of paints on the truck suggests that wind direction was from rear end to front end. If the short circuit had occurred in the cabin then, there should be less impact of fire to the rear end of the Tata Hyva Truck due to the wind direction.
- Discrepancies in the time of fire were notices in the written statements of Sh. Nitesh Bhardwaj (owner) and Sh. Daya Sagar(Driver) and the Uttar Pradesh Fire Service Report. The owner and driver stated in their written statements that the Tata Hyva Truck was caught fire at around 02.00 pm on 23.06.2018 and then after Sh. Nitesh Bhardwaj (owner) readily informed the Kalpi Police Station about the incident. But according to the report of Uttar Pradesh Fire Service, they were informed about the incident at around 03.15 pm and reached at incident site at around 03.40 pm. There was a time gap of more than one hour between the origin of fire and the information received to the fire brigade. It suggests the significant evidence and the insurer should into this matter.
- According to the eye witness, Mohd. Aavesh S/o Mohd. Ramjaan R/o Vill & PO Chatel, PS :Kadaura, The Kalpi Distt:Jalaun, U.P., sount of music was coming out from the Tata Hyva Truck when he first noticed the fire in the Tata Hyva Truck. Then after, he informed the driver who was taking the slip/receipt from the Office of Chatela dump. He was standing at the tube well which was approximately 200 meters away from the Tata Hyva Truck. The Office of Chatela Dump

where the driver was taking the slip/receipt was also approximately 200 meters away from the Tata Hyva Truck. According to him, there were

- three persons were available on the time of incident but no one tried to extinguish the fire.
- As stated by the eye witnesses and insured in their statement, the engine of Tata Hyva Truck was in silent/switched off condition at the time of alleged fire.
- It was also observed that there were a small water tank, tube well and sand dumps that could be used for extinguishing the fire but as per statements of Mohd. Aavesh and Sh. Dayasagar, no one had tried to extinguish the fire.
- The GC-MS analysis reports from the ITL Labs Pvt. Ltd of the burnt debris samples collected from the incident site, the interior and exterior of the burnt Tata Hyva Truck did not have any traces of extraneous flammable and combustible organic materials.
- The absence of extraneous flammable/combustible organic materials/hydrocarbons (i.e. diesel, petrol & kerosene) in the above said fire incident could not be due to the action of intensive heat, fire fighting, heaving rains etc in the intervening period between the alleged fire and examination of the fire affected vehicle by the expert team.
- The aforesaid Tata Hyva Truck was parked at vacant place near the sand dumps.
- The maintenance and service records of the Tata Hyva Truck were not provided by the insured during the visit of expert team.
- According to forensic fire pattern studies on the Tata Hyva Truck at fire incident, the fire will not progress unless some inflammable material helps to propagate the fire from cabin to rear tyres of both sides. In view of the facts and circumstances of the case, fire was due to malicious act/sabotage of someone.
- According to the report of Uttar Pradesh Fire Service, Kalpi Jalaun, the fire brigade received fire information from P.S. Kotwali Kalpi at 03.15 pm. Fire brigade reached the incident site at 03.40 pm travelling the distance of about 30 kms. They left the incident site at 06.30 pm.
- The vehicle No:UP-93-AT-5577 is also verified on the website of Ministry of Road Transport and Highways i.e. www.parivahan.gov.in.
- All the above forensic analysis and inferences lead to a conclusion that the fire had originated from multiple places and spread all around the Tata Hyva Truck. It could not be possible without the use of any inflammable material.

As far as complainant's contention is concerned, it is based upon his personal knowledge. Specific reasons are given for arriving at the conclusions that the fire was not a result of mechanical combustion or electrical failures rather it was on account of malicious act/sabotage/deliberate setting of fire to the stationary/parked Tata Hyva Truck to rear tyres and front tyres independently on both sides.

Reasons mentioned by the expert are based upon the spot investigations which are reliable. As far as factual aspect is concerned, it is stated that the driver left the vehicle in switched on mode while he went to deliver the slip regarding mining. While in the statement, driver states that he was taking rest while he came to know about the fire, these are the material contradictions which go to the root of the case in genuineness of the incident which become doubtful. Time of accident coupled with arrival of the Fire Brigade Team also creates doubt. Fire Brigade arrived at the spot 03.40 pm as far as intimation of fire was received at 03.15 pm by the fire brigade through police. While police was informed just after the incident. Incident took place at about 02.00 pm why there is delay in intimating the fire brigade time by the police could not be explained on record.

Having considered submissions and discussions made above, I am of the view that the complainant fails to establish his case. Accordingly complaint lacks merit and is liable to be dismissed.

Order :

Complaint is dismissed.

22. Let a copy of the award be given to both the parties.

Dated : February 03, 2021

Justice(Retd.) Anil Kumar Srivastava)

Place : Lucknow

Insurance Ombudsman

PROCEEDINGS BEFORE - THE INSURANCE OMBUDSMAN, LUCKNOW
(UNDER RULE NO: 16(1)/17 OF THE INSURANCE OMBUDSMAN RULE 2017)

Mrs. Suman Pandey..... Complainant

V/S

Universal Sompo General Insurance Company Limited.....Respondent

1.	Name & Address of the Complainant	Mrs. Suman Pandey, A-402, Bhukant Vihar, AWHO Colony, Shaheed Path, Lucknow-226012.
2.	Policy No: Type of Policy Duration of policy/DOC/Revival	2314/59979012/00/000 Package Policy [Commercial Vehicle-Passenger] 26.06.2019 to 25.06.2020
3.	Name of the life insured Name of the policyholder	Mrs. Suman Pandey Mrs. Suman Pandey
4.	Name of the insurer	Universal Sompo General Insurance Company Limited
5.	Date of Repudiation/Rejection	01.08.2020
6.	Reason for repudiation/Rejection	Permit authorization not valid on the date of accident
7.	Date of receipt of the Complaint	15.01.2021
8.	Nature of complaint	Unjustified repudiation of claim
9.	Amount of Claim	---
10.	Date of Partial Settlement	---
11.	Amount of relief sought	---
12.	Complaint registered under Rule	Rule No. 13(1)(b) of Ins. Ombudsman Rule 2017
13.	Date of hearing/place	On 23.02.2021 at Lucknow
14.	Representation at the hearing	
	• For the Complainant	Present [through virtual hearing]
	• For the insurer	Mr. Afzal Qurashi [through virtual hearing]
15.	Complaint how disposed	Allowed
16.	Date of Award/Order	23.02.2021

17. Mrs. Suman Pandey (Complainant) has filed a complaint against Universal Sompo General Insurance Company Limited (Respondent) challenging repudiation of her motor claim.

18. Brief Facts of the Case:- The complainant's Maruti Wagon Motor Cab No: UP-32-HN-7212 was insured with the respondent for period 26.06.2019 to 25.06.2020. The vehicle was repaired at KTL Dhawa Road, Lucknow. Her claim was repudiated by respondent on 01.08.2020 on the ground that permit authorization was not valid on the date of accident.

In their SCN/reply dated 16.02.2021, the respondents have submitted that the claim of the insured was repudiated on the ground that permit authorization was not valid at the time of accident which is violation of Section 66 of the Motor Vehicle Act 1988. The basis of repudiation lies in the fact that the insured was not having authorization to drive the insured vehicle at the time of accident. As per

definition of authorization certificate which has been envisaged under Section-2 of Motor Vehicles (All India Permit for Tourist Transport Operators) Rules 1993 which is reproduced below for ready reference:

(b) "Authorization Certificate" means a certificate issued by an appropriate authority to a recognized tourist operator authorizing him to operate throughout the territory of India or in such continuous states, not being less than three in number including the State in which the permit is issued, on recognized tourist circuits, as are specified in the All India Permit for a tourist vehicle granted to him.

The respondents have further submitted that the authorization certificate provided by the complainant was not covering the date of loss.

19. The complainant has filed a complaint letter, annexure VI A, correspondence with respondent and copy of policy document while respondent filed SCN with enclosures.

20. I have heard the complainant through virtual hearing. I have also heard the respondent representative through virtual hearing.

21. Complainant is an owner of vehicle no. UP32HN7212 which was motor cab (taxi). Vehicle met with an accident on 02.02.2020 on Sitapur - Lucknow road near R.R Institute. On the date of accident valid permit from 17.06.2017 to 16.06.2022 was in force. After the accident vehicle was sent to KTL Body shop. A survey was done wherein the surveyor has assessed the loss for Rs.2,17,082.85. Claim submitted by the complainant was rejected on the ground that the permit authorisation was not valid at the time of accident which is a violation of Section 66 of the Motor Vehicle Act 1988. Claim was repudiated.

Complainant submits that she was having a valid permit for state of UP at the time of accident. Accordingly claim has been wrongly repudiated. Respondent's representative submits that claim is repudiated under Section 66 of the Motor Vehicle Act 1988. Authorisation certificate was necessary which was not produced.

Section 66 of the Motor Vehicle Act 1988 reads as under:-

*“66. **Necessity for permits- (1)** No owner of motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used”*

Government order number 1192 सा.प्र.14-283 टीआर/13 dated 19.12.2014 issue by Transport Commission UP provides that:-

“ ऐसी स्थिति मे आल इंडिया टूरिस्ट परमिट से अच्छादित किसी वाहन का परमिट वैध है, परन्तु प्राधिकार पत्र समाप्त हो गया है तो ग्रह राज्य (उत्तर प्रदेश) में ऐसे वाहन का संचालन बिना परमिट नहीं माना जायेगा और तदानुसार ऐसे वाहन से देय कर की पांच गुना वसूली नहीं की जाएगी।”

Section 66 nowhere provides for authorisation certificate to ply the cab in state of UP. It deals with a necessity for permit. Admittedly on the date of accident valid permit was there for the vehicle in question. Vehicle met with the accident in Uttar Pradesh. Accordingly I am of the view that the claim has been wrongly repudiated. Complaint is liable to be allowed.

Order:-

Complaint is allowed. Respondents are directed to make the payment of claim amount with 6.65% penal interest per annum with effect from the date of claim till the date of actual payment. Compliance be made within 30 days.

22. Let copy of the award be sent to both the parties.

Date : February 23, 2021

Justice (Retd.) Anil Kumar Srivastava

Place : Lucknow

Insurance Ombudsman