

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION
UT CHANDIGARH**

**First Appeal No. A/137/2024
(Date of Filing : 02 Apr 2024)
(Arisen out of Order Dated in Case No. CC/396/2021 of District DF-I)**

1. BAJAJ ALLIANZ LIFE INSURANCE COMPANY LTD &
ANR

BAJAJ ALLIANZ LIFE INSURANCE COMPANY LTD.
REGD. OFFICE ALLIANZ HOUSE, AIRPORT ROAD,
YERWADA, PUNE 411006 THROUGH ITS DIRECTOR
BOARD OF DIRECTORS/ MANAGING DIRECTOR
AUTHORIZED SIGNATORY.

PUNE

MAHARASHTRA

2. BAJAJ ALLIANZ LIFE INSURANCE COMPANY LTD

BAJAJ ALLIANZ LIFE INSURANCE COMPANY LTD. THE
BRANCH MANAGER BAJAJ ALLIANZ LIFE INSURANCE
COMPANY LTD. SCO-215-216-217 4TH FLOOR, SECTOR
34/A CHANDIGARH, THROUGH ITS DIRECTOR/BOARD
OF DIRECTORS/MANAGI

CHANDIGARH

CHANDIGARH

.....Appellant(s)

Versus

1. SUNNY BHATIA & ORS

SUNNY BHATIA AGED 36 YEARS S/O SH.SATISH
BHATIA AND LATE SMT.NEELAM BHATIA R/O
H.NO.3186, SECTOR 28-A, CHANDIGARH.

CHANDIGARH

CHANDIGARH

2. BAJAJ FINSERV LIMITED

BAJAJ FINSERV LIMITED, THROUGH ITS
DIRECTOR/BOARD OF DIRECTORS/MANAGING
DIRECTOR/AUTHORIZED SIGNATORY, REGD. OFFICE,
AKURDI, PUNE 411035.

PUNE

MAHARASHTRA

3. CPP GROUP INDIA

CPP GROUP INDIA A-370, II FLOOR, KALKAJI, NEW
DELHI, INDIA 110019. THROUGH ITS DIRECTOR/BOARD
OF DIRECTORS/MANAGING DIRECTOR/AUTHORIZED
SIGNATORY, 2ND ADDRESS- PRIMARY BUSINESS
ADDRESS- GROUND FLOOR

NEW DELHI

DELHI

.....Respondent(s)

BEFORE:

**HON'BLE MRS. PADMA PANDEY PRESIDING MEMBER
HON'BLE MR. PREETINDER SINGH MEMBER**

PRESENT:**Dated : 27 Nov 2024****Final Order / Judgement****STATE CONSUMER DISPUTES REDRESSAL COMMISSION,****U.T., CHANDIGARH****(Additional Bench)**

Appeal No.	:	137 of 2024
Date of Institution	:	03.04.2024
Date of Decision	:	27.11.2024

1. Bajaj Allianz life insurance company Ltd. Regd. Office: Allianz House, Airport Road, Yerwada, Pune 411006. through its Director/Board of Directors/Managing Director/Authorized Signatory.

2. Bajaj Allianz life insurance company Ltd. The Branch Manager Bajaj Allianz life insurance company Ltd. SCO-215-216-217 4Th Floor, Sector 34/A Chandigarh, through its Director/Board of Directors/Managing Director/Branch Manager/Authorized Signatory.

Presently filed through Ms.Swati Seth (Zonal Legal Head-North-1, Legal & Compliance, Bajaj Allianz Life Insurance Co. Ltd. SCO 215-216-217 4th Floor, Sector 34/A Chandigarh-160022.

...Appellants

V e r s u s

1. Sunny Bhatia, aged 36 years S/o Sh. Satish Bhatia and Late Smt. Neelam Bhatia R/o H. No. 3186, Sector 28-A, Chandigarh.
2. Bajaj Finserv Limited, through its Director/Board of Directors/Managing Director/Authorized Signatory, Regd. Office, Akurdi, Pune 411035.
3. CPP group India A-370, II Floor, Kalkaji, New Delhi, India 110019. Through its director/board of directors/Managing Director/Authorised Signatory

2nd address: Primary business address: Ground Floor, Wing-A Golf View Corp, Tower-A Golf Course Road, DLF-V Sector 42. Gurgaon 122002 Haryana India

...Respondents

Appeal under Section 41 of the Consumer Protection Act, 2019 against order dated 14.02.2024 passed by District Consumer Disputes Redressal Commission-I, U.T. Chandigarh in Consumer Complaint No.396/2021.

BEFORE: MRS. PADMA PANDEY, PRESIDING MEMBER

MR.PREETINDER SINGH, MEMBER

For the appellant : Sh. Nitin Thatai, Advocate (on VC), alongwith

Ms.Monika Thatai, Advocate

For respondent No.1 : Sh.Sunil Toni, Advocate

For respondent No.2 : Sh.Anirudh Gupta, Advocate

For respondent No.3 : Sh.Mukul Tyagi, Advocate (On VC)

PER PADMA PANDEY, PRESIDING MEMBER

This appeal is directed against the order dated 14.04.2024, rendered by the District Consumer Disputes Redressal Commission-I, U.T. Chandigarh (hereinafter to be referred as “the Ld. Lower Commission”), vide which, it allowed the complaint bearing No.CC/396/2021 by holding as under ;

“In view of the above discussion, the present consumer complaint succeeds and the same is accordingly allowed. OPs No.1&2 are directed as under:-

- i. to pay Rs.3,50,000/- with interest @9% P.A. from the date of filing the instant complaint till onwards.
- ii. to pay Rs.10,000/- to the complainant as compensation for causing mental agony and harassment to him;
- iii. to pay Rs.10,000/- to the complainant as costs of litigation.

This order be complied with by the OPs No.1&2 within 45 days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iii) above

2. Before the Ld. Lower Commission, it was case of the complainant/respondent No.1 that his mother took personal Loan of Rs.2,59,000/- from OP No.3-Bajaj Finserv Limited. However, at the time of advancing loan, OP No.3 compelled the complainant's mother to avail the additional products of OP No.4- CPP Group India for a sum assured of Rs.3,50,000/-. Accordingly under compelled circumstances, the complainant's mother purchased membership of OP No.4 and paid an amount of Rs.4699/- as membership fee. She was provided a complimentary Group 'Term Life Insurance' by OP No.4- with critical illness rider including "Death Claim" having coverage of Rs.3,50,000/- which was valid w.e.f.17.2.2020 to 16.2.2021. At the time of taking the policy, the mother of the complainant was hale and hearty. However on 28.12.2020 the complainant's mother Smt. Neelam Bhatia (now deceased) was admitted in City Hospital, Madhya Marg, Chandigarh with the primary diagnosis i.e. B/L Pneumonia, sepsis with septic shock, type 2 respiratory failure, and metabolic acidosis and during the treatment, she expired due to sepsis with septic shock as per opinion given by the treating hospital. After

the death of his mother, the complainant lodged a claim with OP No.1/Bajaj Allianz Life Insurance Company Ltd. but to the utter surprise of the complainant that the claim was repudiated by the OPs vide Annexure C-7 on the ground of non disclosure of material fact. It was stated that mother of the complainant (deceased Neelam Bhatia) was hale and hearty in the year 2018 and she was not suffering from any such disease as mentioned by OP No.1 in the repudiation letter. It was averred that the factum of treatment from the Shivalik Hospital was in the knowledge of the OPs and was disclosed to the OP No.3 but the Opposite Parties wrongly repudiated the claim of the complainant. Hence, alleging deficiency in service and unfair trade practice on the part of the Opposite Party, a consumer complaint was filed before the Ld. Lower Commission.

3. Pursuant to issuance of notice, Opposite Parties appeared before the Ld. Lower Commission and contested the complaint. Opposite Parties NO.1&2 in their reply while admitting the factual matrix of the case stated that the answering OPs acted as per terms and conditions of the insurance policy. After the death of deceased life assured (for short DLA), her son, the complainant filed death claim under the policy. As it was an early death claim, therefore the answering opposite parties decided to investigate the matter and on investigation, it was discovered that the DLA was suffering from Hypertension, Diabetes, thyroid, sepsis with septic shock and type 2 respiratory failure. Medical records from various hospitals and clinics including "Shivalik Hospital & Trauma Centre and IVY Hospital" clearly showed that the DLA was not only diagnosed with these medical issues but was also undergoing treatment since 2014, which fact was never disclosed by the complainant while availing the loan in the name of her mother Neelam Bhatia and before issuance of the policy. It was pleaded that claim of the complainant was rightly repudiated. All other allegations made in the complaint were denied and a prayer was made for dismissal of the complaint.

4. Opposite Party No.3/Bajaj Finserv Limited in its reply stated that as the answering OP has no role in approving or rejecting the insurance claim being a mere financier and as such it cannot be held liable for any claim made by the Complainant. It was further stated that the complainant has no cause of action against the answering OP, as such, no claim against it is maintainable. Other allegations were denied and by pleading that there was no deficiency in service on its part, a prayer was made for dismissal of the complaint.

5. Opposite Party No.4/CPP Group India in its reply stated that the answering Opposite Party is not an insurance company. In fact, Term Life Insurance of the Complainant was issued by Opposite Party Nos. 1 & 2. The role of answering Opposite Party is of 'Master Policyholder' and is limited to that of a mere 'facilitator'. The answering Opposite Party qua 'facilitator' got the Complainant insured by Opposite Party Nos. 1 & 2, as such, claim if any, was to be processed and settled by Opposite Party Nos. 1 & 2 and not by the answering Opposite Party. Other allegations were denied and by pleading that there was no deficiency in service on its part, a prayer was made for dismissal of the complaint.

6. On appraisal of the complaint, and the evidence adduced on record, Ld. Lower Commission allowed the Complaint of the Respondent No.1/Complainant, as noted in the opening para of this order.

7. Aggrieved against the aforesaid order passed by the Ld. Lower Commission, the instant Appeal has been filed by the Appellants/Opposite Parties No.1 & 2.

8. We have heard Learned Counsel for the parties and have gone through the evidence and record of the case with utmost care and circumspection.

9. It is the case of the Appellants/Opposite Parties No.1 & 2 that the Ld. District Commission while passing the impugned order has failed to appreciate the documentary evidence available on record, which resulted into perverse finding. Also, the impugned order was passed without taking into consideration the facts of the case that there was concealment of material facts about the health of the deceased life assured and without appreciating the correct legal position, which resulted into gross miscarriage of justice and thus deserves to be set aside. However, on the other hand, the learned counsel for respondent No.1/complainant argued that the order passed by the Learned District Commission is quite just and reasonable, as such, does not call for any interference.

10. There is no dispute that the loan in question was taken by respondent No.1/complainant in the name of his mother Smt. Neelam Bhatia from Bajaj Finserv Limited, through Tele-calling mode as his mother was stated to have gone out of country. There was only conversation/telephone call by way of CD and no proposal in written manner. It is case of the appellants that at the time of issuance of the loan, respondent No.1/complainant was informed by the Tele-caller from Bajaj Finserv Ltd. that alongwith the loan, he would be getting a complimentary insurance cover as additional products of respondent No.3/CPP Group India worth Rs.3,50,000/-. Respondent No.1 was informed all the terms and conditions of insurance cover and after careful consideration, he agreed to buy the insurance cover under membership No.IL015997 and paid Rs.4699/-. Infact, the appellant company enrolled Smt. Neelam Bhatia as Member into a Complimentary Group Term Life Insurance Cover with all critical illness rider provided by an Indian Life Insurance Company registered with IRDA and the date of risk commencement was from 17.2.2020 to 16.2.2021. During the currency of the said insurance cover, Smt. Neelam Bhatia died on 1.1.2021. On lodging death claim by respondent No.1, the same was not paid by the appellants because through investigation it came to their light that the deceased life assured was suffering from various ailments like diabetes, hypertension, thyroid, kidney infection prior to issuance of the insurance policy and she was taking medical treatment from various hospitals since, 2014 and this fact was not disclosed at the time of insurance.

11. The investigator who was appointed on 18.3.2021 by the appellants namely Noor Enterprises submitted its report on 21.3.2021 giving the following finding, as mentioned in OP-4 ;

“First of all this is case regarding the LA Neelam Bhatia W/o Satish Bhatia, House number SCF 39, Sector-28-C, Chandigarh, Sector 19, Chandigarh, visited on above location on 20th March, 2021. I met with LA's relative and neighbours they said that LA having long time disease and she had multiple treatment in various hospitals. Then I went to LA's Home, where I met with LA's husband Satish Bhatia(57), son Sunny Bhatia and daughter in law Deepika(34). They said LA had medical disease from long time, also they said that LA having treatment and diagnosed in multiple hospitals and clinics, she had treatment since 2014. LA was not medically fit and she had blood Sugar, Hypertension. About the incident of death, they said that LA had kidney infection and she was admitted in CHD City Hospital, Sector-8, Chandigarh. She was admitted on 28th Decemdbber, 2020 and died on 1st January, 2021, during treatment.

12. Besides the above report, certain prescriptions and test reports of laboratories have been attached with the investigation report. Admittedly Smt. Neelam Bhatia was admitted in City Hospital, Sector-8, Chandigarh on 28.12.2020 and she died on 1.1.2021. According to death summary Annexure OP-5, the patient was presented to hospital with the complaint of breathlessness on and off associated with increased sleep and decreased urine output. Primary diagnosis was reported as B/L Pneumonia, sepsis with septic shock, type 2 respiratory failure, metabolic acidosis and secondary diagnosis was reported as hypertension, hypothyroidism. However, there is no documentary evidence produced on record that the deceased life assured was suffering from such diseases at the time of enrolling her as member in the Group Insurance Life insurance policy. The Hon'ble National Commission in the case titled as Neelam Chopra Vs. Life Insurance Corporation of India & Ors., IV (2018) CPJ 321 (NC) while dealing with the question of suppression/ non-disclosure of material facts held as under :-

“ In the present case, clearly the cause of death is cardio respiratory arrest and this disease was not existing when the proposal form was filled. Clearly, there is no suppression of material information in respect of this disease, which is the main cause of death. The other disease of LL Hansen, which was prevailing for five weeks on the date of admission on 1.8.2003 was also not existing when the proposal was filed by the DLA. The fact of DLA having been treated in the year 2002 for LL Hansen is not supported from any direct evidence though PGI Chandigarh in its certificate has mentioned that disease was treated in 2002. Moreover, this disease does not have any correlation with the cause of death in the present case. Hon'ble Supreme Court in Sulbha Prakash Motegaonkar and Ors. v. Life Insurance Corporation of India, Civil Appeal No.8245 of 2015, decided on 5.10.2015 (SC) has held the following:

“We have heard learned Counsel for the parties.

It is not the case of the Insurance Company that the ailment that the deceased was suffering from was a life threatening disease which could or did cause the death of the insured. In fact, the clear case is that the deceased died due to ischaemic heart disease and also because of myocardial infarction. The concealment of lumbar spondylitis with PID with sciatica persuaded the respondent not to grant the insurance claim.

We are of the opinion that National Commission was in error in denying to the appellants the insurance claim and accepting the repudiation of the claim by the respondent. The death of the insured due to ischaemic heart disease and myocardial infarction had nothing to do with this lumbar spondylitis with PID with sciatica. In our considered opinion, since the alleged concealment was not of such a nature as would disentitle the deceased from getting his life insured, the repudiation of the claim was incorrect and not justified.”

13. The Hon'ble National Commission in the case titled Sunil Kumar Sharma v. Tata AIG Life Insurance Company and Ors., Revision Petition No.3557 of 2013 decided on 1.3.2021, while dealing with the issue of pre-existing disease, has held as under:-

“ Moreover the claim had been repudiated only on the ground that the insured was suffering from diabetes for a long time. So far as life style diseases like diabetes and high blood pressure are concerned, Hon'ble High Court of Delhi in Hari Om

Agarwal Vs. Oriental Insurance Co. Ltd., W.P.(C) No.656 of 2007, decided on 17.09.2007 held as under:

“Present Petition filed for appropriate directions to respondent to reimburse expenses incurred by him for his medical treatment, in accordance with policy of insurance - Held, there is no dispute that diabetes was a condition at time of submission of proposal, so was hyper tension - Petitioner was advised to undergo ECG, which he did - Insurer accepted proposal and issued cover note. It is universally known that hypertension and diabetes can lead to a host of ailments, such as stroke, cardiac disease, renal failure, liver complications depending upon varied factors. That implies that there is probability of such ailments, equally they can arise in non-diabetics or those without hypertension. It would be apparent that giving a textual effect to Clause 4.1 of policy would in most such cases render mediclaim cover meaningless. Policy would be reduced to a contract with no content, in event of happening of contingency. Therefore Clause 4.1 of policy cannot be allowed to override insurer's primary liability. Main purpose rule would have to be pressed into service. Insurer renewed policy after petitioner underwent CABG procedure. Therefore refusal by insurer to process and reimburse petitioner's claim is arbitrary and unreasonable. As a state agency, it has to set standards of model behaviour; its attitude here has displayed a contrary tendency. Therefore direction issued to respondent to process petitioner's claim, and ensure that he is reimbursed for procedure undergone by him according to claim lodged with it, within six weeks and petition allowed.

14. Further the Ld. Lower Commission while holding deficiency in service on the part of the Opposite Parties No.1 & 2/appellants, rightly observed as under ;

Perusal of terms and conditions at page 21 of the complaint reveals that there is rider benefit which is reproduced as under:-

“Rider Benefit

On first diagnosis of any of the 11 Critical Illnesses (as defined below) on the life of the Member or joint member incase of joint life coverage is opted during the term of the Policy provided the Rider is not terminated (as per condition/s given) then, the Company, subject to Non-forfeiture Revival/ Exclusions, shall pay the Rider Sum Assured to the Member. The diagnosis of the Critical Illness needs to be confirmed by a registered Medical Practitioner appointed by the Company and has to be supported by acceptable cinical radiological, histological and laboratory evidence. The Company should be informed of the Critical Illness within 30 days of diagnosis of the Critical Illness.”

Perusal of the aforesaid contents clearly indicates that before issuance of the policy it was the duty of the OP insurance company to get the diagnosis of the critical illness of the insured confirmed by registered medical practitioner appointed by the insurance company but in the present case admittedly no such formality or procedure was conducted. As per written statement of OPs the policy was issued on the basis of call and answer given by the complainant and not by his mother, the insured. The cause of death is clearly mentioned as spesis with septic shock. Moreover, the OPs insurance company have placed on record copy of conversation

Annexure OP-3/A which reveals that the insurance was paperless. Thus, in our opinion it was the responsibility of the OP insurance company to get the medical examination of the insured done before issuing the policy in question and receiving premium from the complainant. Thus there is deficiency on the part of the Ops No.1&2.”

15. In view of the above, we find that the order passed by the Ld. District Commission is based on correct appreciation of law on the point and does not suffer from illegality and perversity warranting any interference of this Commission.

16. For the reasons recorded above, the appeal, being devoid of merit, must fail, and the same is dismissed, with no order as to costs. The order of the Ld. Lower Commission is upheld

17. Pending interlocutory application(s), if any, also stands disposed of

18. Certified copies of this order be sent to the parties free of charge.

19.. The file be consigned to Record Room, after completion.

(PREETINDER SINGH)

MEMBER

[HON'BLE MRS. PADMA PANDEY]

PRESIDING MEMBER

**[HON'BLE MR. PREETINDER SINGH]
MEMBER**