Details	DD	MM	YY
Date of Judgment	30	01	2025
Date of filing	17	08	2021
Duration	13	05	03

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION AHMEDABAD (ADDITIONAL) AT AHMEDABAD

CONSUMER COMPLAINT NO. 1624 OF 2021

Amrutlal T. Thakkar
R/o. 5 / A , Sneh Sangam Society,
B/h. Azad Sweets, Usmanpura,
Ahmedabad -13 .

Complainant

Versus

1. IFFCO TOKIO GENERAL INS. CO. LTD.
4TH, Floor, 401, Swapnil Building,
Nr. Commerce Six Road, Navrangpura,
Ahmedabad -09.

2. Aartham Multi Super Specialty Hospital
Opp. Government Polytechnic, I – Colony,
Nr. Panjrapole Cross Road,
Ambawadi, Ahmedabad - 06.

Opponents

Mr. M. K. Dudhiya, Ld. Advocate for the Complainant
Mr. R. P. Raval, Ld. Advocate for the Opponent No. 01
Mr. S. M. Shah, Ld. Advocate for Opponent No. 02.

Coram : Mr. K. J. Dasondi, President I/c.

Mr. M. B. Chauhan, Member

ORDER

Per Mr. M. B. Chauhan, Member

The present complaint has been filed by the complainant, as per **Section 35** of **The Consumer Protection Act, 2019**, against the opponent Insurance Company alleging deficiency in service, on its part, with the case that,

1. The complainant is mediclaim policy holder of the opponent Insurance Company under the **Corona Kavach Policy** for the period from **31/07/2020 to 27/04/2021** for **Rs. 5,00,000/- S I**.

2. It is also case of the complainant that, on **27/02/2021 to 05/03/2021** the complainant had undergone for the treatment of **COVID** in **Aartham Hospital** and for that medical treatment complainant had incurred total medical expenses of **Rs. 2,01,512/-**. The Complainant had submitted mediclaim with the opponent for that amount through TPA. However, the opponent has paid only **Rs. 1,55,378/-** and remaining amount of **Rs. 46,134/-** has been deducted illegally. Thereby, the opponent Insurance Company has shown unfair trade practice as well as deficiency in service. So, the complainant has filed the present complaint for getting the deducted amount of mediclaim along with interest and compensation from the opponent.

3. That, the complainant has also produced the documentary evidence in support of the complaint. The documents are copies of policy schedule, discharge summary and deduction sheet.

4. On admitting the complaint for consideration, the notice was issued to the opponent. On notice, the opponent Insurance Company appeared through its Ld. Advocate and filed the written statement.

5. The opponent, Insurance Company, has denied the allegation and contention made by the complainant in *toto*. It is also contended that, the opponent has already paid the amount which was legally payable to the complainant and remaining amount of **Rs. 46,134/-** has been deducted which was not payable as per the package and AMC Circulars and also as per terms and conditions of the policy . There is no deficiency in service on the part of the opponent. Therefore, the opponent has prayed to dismiss the complaint with costs.

6. The opponent Insurance Company has produced copies of policy, Discharge Summary, Claim Form and AMC Circulars.

7. **The opponent Hospital** has also filed written statements and denied the allegation. It is also contended that, the charges was charged as per AMC circulars therefore, the opponent Hospital is not liable for the same as there was no excess charge was charged.

8. The opponent Hospital has not produced any documentary evidence.

9. After giving sufficient opportunities to both the sides to prove respective cases on the basis of affidavit and documentary evidence, the complaint was taken up for the final hearing.

10. When the complaint came before the Commission for final hearing, we have heard at length **Ld. Ad. Mr. M. K. Dudhiya** for the Complainant and **Ld. Ad. Mr. R. P. Raval** for the opponent Insurance Company. But nobody was appeared for the opponent Hospital at the time of hearing.

11. Ld. Ad. for the complainant has submitted according to contains of the complaint and further submitted that, there is no any dispute about the facts of insurance policy, the treatment undergone by the complainant, and the amount spent by the complainant, therefore, on fact, there is no controversy.

12. It is also submitted that, the amount, which has been deducted by the opponent, is deducted without applicable of any valid and legal terms and conditions, proper justification and acceptable ground. Therefore, the complaint of the complainant may be allowed with costs and interest.

13. On the other hand, Ld. Advocate for the opponent Insurance Company, has submitted that, the amount of **Rs. 46,134/-** has been deducted, because which was not payable as per the reason of " As per package as well as AMC Circulars " as mentioned in the settlement letter. So, the deduction made by the opponent is as per the terms and conditions which is legal and valid.

14. Considering the respective submissions for the both sides, in the light of pleadings as well as documentary evidence produced by them on records, we are of the view that, there is no dispute regarding mediclaim policy, sum insured, treatment of the complainant, medical expenses incurred to the complainant and reimbursement made by the opponent. But there is dispute regarding validity and legality of deduction made by the opponent.

15. Being aggrieved by the deduction of **Rs. 46,134/-** made by the opponent from the mediclaim submitted by the complainant, the complainant has filed the present complaint, as per the provision of **The Consumer Protection Act 2019**, for getting the deducted amount from the opponent.

16. The complainant had taken medical treatment for COVID – 19 at hospital for that medical treatment and for that the mediclaim was submitted by the complainant. Out of the said mediclaim the opponent Insurance Company has deducted **Rs. 46,134/-** by applying AMC / Government guidelines.

17. However, the deduction made by the opponent can be held arbitrary and illegal, because it is on the ground of AMC. But, in our view, on the basis of the AMC guidelines, the Insurance Company cannot deduct any amount from the valid mediclaim. As per the contract of mediclaim, the Insurance Company is bound to pay the payable medical expenses and cannot avoid liability of payment of mediclaim on the ground of AMC guidelines. The object of issuing AMC guidelines and Government guidelines, for the

purpose of medical expenses, was different and that was not giving any right to Insurance Company to deduct the amount of mediclaim on the basis of that AMC guidelines.

18. The AMC guidelines cannot give right or permit to the Insurance Company to deduct any amount without any terms and conditions. Because, the Government as well as AMC and other Municipal Corporations of Gujarat have issued guidelines with an object that, the ordinary person and patient of COVID - 19 gets appropriate medical treatment at a reasonable costs and expenses. The targeted persons, in our opinion, were poor and middle class persons who have no much source of income and who were not holding any mediclaim policy. So, AMC guidelines cannot be used by the opponent Insurance Company to deduct any valid medical expenses incurred by any mediclaim policy holders.

19. The claim settlement letter / sheet is produced vide **page no. 04** wherein Rs. 28,000/- for Consultants visits charges, Rs. 3911/- for Investigation charges, Rs. 14,222/- for Medicine charges, Rs. 02/- for Pre - Hospitalization charges and Rs. 98/- for S I Limit deductible but not explained with relevant terms and conditions of the policy While other deduction has been deducted as per included in AMC package as per above reason it is not justified. Therefore, the complainant is entitled for deducted amount of **Rs. 46,134/- (i. e. as per prayer of the complaint)**..

20. The Commission has also considered that, the treatment was taken from **opponent Hospital**. However as per the

Mediclaim Insurance Policy the medical expenses were claimed but due to deduction the present complaint has been filed. It is also relevant to consider that, The contract of insurance has been executed between the complainant and the Insurance Company where the hospital is not party. Therefore the Commission is of view that the said contractual obligation lies with the Insurance Company only and **therefore the hospital is exonerated.**

21. So, the complaint filed by the complainant deserves to be allowed with reasonable rate of interest, costs of litigation and compensation for the harassment.

22. Considering the facts and circumstances of the case if, we grant Rs. 3,000/- as compensation for physical harassment and mental agony and Rs. 2,000/- for costs of litigation, then that would be just, proper and reasonable. Hence, we pass the following final order.

FINAL ORDER

- The present complaint is hereby partly allowed with costs.
- The **complainant** is entitled for **Rs. 46,134/- (Rupees Forty - Six Thousand, One Hundred and Thirty - Four only)** the amount of mediclaim, from the opponent Insurance Company, along with interest at the rate of **9 % P. A.** from the date of the complaint **i. e. 17/08/2021** till the realization of the amount of award.

- The **complainant** is also entitled **Rs. 3,000/- (Rupees Three Thousand Only)** as a compensation for physical harassment and mental agony and **Rs. 2,000/- (Rupees Two Thousand only)** as a costs of this litigation from the opponent.
- The opponent do pay the aforesaid whole amount of award to the complainant within the period of one month.
- Registry to provide the copy of this judgment to both parties free of cost as per the rules.

Pronounced in open court today on 30/01/2025.

30/01/2025

(Mr. M. B. Chauhan)
Member

(Mr. K. J. Dasondi)
President I/c.

District Consumer Dispute Redressal Commission, Ahmedabad (Add.)