

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
MAHARASHTRA, MUMBAI**

Consumer Complaint No.CC/18/19

Mr. Mahesh Dashrath Gaikwad

R/o. Room No.20, Varsha Apartments,

Santosh Nagar, Tisgaon, Kalyan (E),

Mumbai – 421306.

..... Complainant

Versus

1) Royal Sundaram General Insurance Co.Ltd.

Thro' it's Manager

O/at Office No.1001 and 1007,

10th Floor, Plot No.60, Mayuresh Chambers,

Sector – 11, CBD Belapur, Mumbai – 400 614.

2) Royal Sundaram General Insurance Co.Ltd.

Thro' it's Manager

Corporate Claims Department,

o/at Vishranthi Melaram Towers, 2/319

Rajiv Gandhi Salai (OMR), Karapakkam,

Chennai – 6000097. Tamilnadu State.

3) Royal Sundaram General Insurance Co.Ltd.

Thro' it's Manager

Its Regd. Office at 21, Patillos Road,

Chennai-600 002. Tamilnadu State.

..... Opposite Party

BEFORE:

Hon'ble Mr. Mukesh V. Sharma, Presiding Member

Hon'ble Ms. Poonam V. Maharshi, Member

PRESENT:

For the Complainant : Advocate Avinash More

For Opposite Party : Advocate Nikhil Mehta

JUDGMENT**(16-09-2025)****Per: Hon'ble Mukesh V. Sharma, Presiding Member**

1. The present consumer complaint has been filed under Section 12 of the Consumer Protection Act, 1986 by the complainant against the Opposite Parties, namely Royal Sundaram General Insurance Co. Ltd. and its associated offices.

2. It is submitted by complainant that the he is the registered owner of a Mitsubishi Pajero Sport vehicle bearing registration number MH-05-CV-7677, which was insured with the Opposite Party under Private Car Package Policy No. VPC0741805000100, valid for the period from 13/05/2016 to 12/05/2017, with the Insured Declared Value (IDV) of Rs. 24,84,250/-.

3. It is further submitted that full premium was paid and the policy was comprehensive in nature, covering all risks of the said vehicle. The complainant therefore claims to be a consumer within the meaning of the Act and entitled to the benefits arising out of the policy.

4. It is further submitted that the complainant is an elected Corporator of Kalyan-Dombivli Municipal Corporation. On 25/03/2017, while attending the Annual General Meeting of the Corporation held at Savarkar Hall, the complainant parked his vehicle in the premises and went inside for the meeting.

5. At that time, due to a sudden disturbance amongst supporters present in the premises, the police authorities intervened for security reasons and detained certain persons and vehicles, including the vehicle of the complainant. It is submitted that the said vehicle was thereafter kept by the police outside Bazar Peth Police Station, Kalyan (West), and was not in the custody or use of the complainant from that moment.

6. It is the case of the complainant that in the intervening night of 28/03/2017, at about 03.15 a.m., while the said vehicle was so parked outside the police station near an electric transformer pole, sudden sparking and fall of electric wire occurred, which led to the vehicle catching fire.

7. The fire brigade was immediately called and managed to control the fire, but by then the vehicle had been completely gutted and sustained total damage. The police authorities registered spot panchnama dated 28/03/2017, recorded the statement of witness Mr. Deepak Ramrao Patil, and made accidental fire register entry No. 01/2017, which confirmed that the fire occurred due to electric short circuit and not on account of any negligence or unlawful act of the complainant. The Fire Brigade, by its report dated 01/04/2017, also supported this conclusion.

8. It is submitted that after the incident, intimation was given to the Opposite Party insurer and necessary claim form was lodged on 24/04/2017 for settlement of claim on total loss basis. The complainant further stated that all requisite documents including FIR, spot panchnama, fire report and police reports were submitted.

9. The Opposite Parties appointed a surveyor, who inspected the site and vehicle. Despite this, the claim was repudiated on 31/07/2017 on the allegation that the vehicle was used for unlawful purpose on the date of incident.

10. The complainant submitted that such repudiation is wholly unjustified and mala fide, because at the time of the fire the vehicle was admittedly seized and under the custody of police, and therefore there was no occasion for him to use it unlawfully.

11. The complainant, having suffered total loss of his insured vehicle, is compelled to seek redressal before this Commission for indemnification of IDV, interest, and compensation for harassment and litigation expenses.

12. Consumer complaint was admitted. After admission of the complaint, notice was issued to the Opposite Parties. Pursuant thereto, the Opposite Parties appeared through their learned advocate and filed their written statement.

13. In the said written statement it is submitted that the complaint is misconceived and not maintainable; that the complainant is not a consumer within the meaning of Section 2(d) of the Act; and that the claim is squarely hit by General Exception Clause No. 6 of the insurance policy.

14. It is further submitted that an FIR No. 77/2017 dated 25/03/2017 was registered against the complainant and others under various provisions of IPC and the Arms Act in relation to an incident at Vinayak Damodar Savarkar Hall. It is their case that the insured vehicle was confiscated in connection with said unlawful assembly and therefore the subsequent fire damage is outside the scope of the policy. It is accordingly prayed that the complaint be dismissed with costs.

15. The complainant, on the other hand, has denied all such allegations and has submitted that his vehicle was wrongfully detained by the police authorities and kept outside Bazar Peth Police Station, where it was destroyed due to accidental fire caused by fall of electric wire. It is further urged that neither the police panchnama nor the fire brigade report makes any connection of the vehicle with the alleged unlawful acts, and that the repudiation dated 31/07/2017 is arbitrary and amounts to deficiency in service. It is prayed that the Opposite Parties be directed to pay the IDV of Rs. 24,84,250/- with interest, compensation for harassment, and litigation costs.

16. After considering the complaint, written statement, documentary evidence, surveyor's report, and written notes of arguments filed by both sides, the following points arise for our determination:

Sr. No.	Points for Determination	Findings
1	Whether the complainant is a consumer as contemplated under the Consumer Protection Act?	Yes
2	Whether the complaint is filed within limitation as prescribed under Section 24-A?	Yes
3	Whether the Opposite Parties are guilty of deficiency in service and liable to indemnify the complainant?	Yes
4	What order?	As per final order

Issue No. 1 – Whether the complainant is a consumer as contemplated under the Consumer Protection Act, 1986?

17. It is submitted by the complainant that he purchased the Mitsubishi Pajero Sport vehicle for his personal use and got it insured with the Opposite Parties under a comprehensive package policy. The policy document clearly shows that the risk of the vehicle was covered on payment of premium. The complainant had therefore availed services of the Opposite Parties for consideration, namely insurance service, which squarely brings him within the

definition of “consumer” as provided under Section 2(1)(d) of the Consumer Protection Act, 1986.

18. On the other hand, the Opposite Parties have merely pleaded that the complainant is not a consumer without producing any evidence to show that he was engaged in commercial activity or that the policy was taken for commercial gain. The admitted position is that the complainant is a Corporator, using the vehicle for attending to his duties and personal needs, and the risk was covered under a private car policy. There is no element of trade or business. Thus, the objection of the Opposite Parties is unsustainable, and the issue is answered in the affirmative.

Issue No. 2 – Whether the complaint is filed within limitation as prescribed under Section 24-A of the Act?

19. It is the case of the complainant that his claim was repudiated by the Opposite Parties vide letter dated 31/07/2017, and the present complaint came to be filed on 28/12/2017. The limitation under Section 24-A of the Act is two years from the date of accrual of cause of action. The cause of action in the present matter crystallised on the date of repudiation, i.e., 31/07/2017, and the complaint was lodged within five months thereafter, well within the prescribed limitation period.

20. The objection raised by the Opposite Parties that the complaint is barred by limitation has no merit. The vehicle was destroyed in fire on 28/03/2017, claim was filed on 24/04/2017, and repudiation followed on 31/07/2017. It is settled law that

repudiation is the starting point of limitation. The complaint filed within the same calendar year is therefore within time. We thus hold that the complaint is not barred and is filed within limitation. Hence, Issue No. 2 is also answered in the affirmative.

Issue No. 3 – Whether the Opposite Parties are guilty of deficiency in service and liable to indemnify the complainant?

21. The complainant has stated that his Mitsubishi Pajero Sport was insured with the Opposite Parties under Private Car Package Policy No. VPC0741805000100, which was valid from 13/05/2016 to 12/05/2017, for an Insured Declared Value of Rs. 24,84,250/. He further stated that while this policy was in force, the police authorities seized his vehicle on 25/03/2017.

22. The complainant has further averred that from that date the vehicle was not in his custody but was kept parked by the police outside Bazar Peth Police Station. He has submitted that in the intervening night of 28/03/2017, the vehicle caught accidental fire on account of sparking and fall of electric wire from an adjoining transformer pole, resulting in complete destruction. According to him, the spot panchnama, the accidental fire register entry and the fire brigade report all establish the accidental cause, and repudiation of claim by the insurer on the ground of unlawful use is wholly unsustainable.

23. In reply, the defence of the Opposite Parties is that the complainant was involved in disturbance at Vinayak Damodar Savarkar Hall on 25/03/2017, that FIR No. 77/2017 was registered against him and others, and that the vehicle was seized

in connection with said criminal case. It is urged that in view of General Exception Clause No. 6 of the policy, any loss arising out of unlawful use or unlawful purpose is excluded from coverage. The insurer has also relied upon the surveyor's report which suggested that *"it appears the vehicle has been burnt intentionally by unknown persons to take revenge."* On these grounds, the Opposite Parties submit that the repudiation dated 31/07/2017 is justified and the complaint is liable to be dismissed.

24. Having considered the rival pleadings, the following admitted position emerges: (i) the complainant's vehicle was duly insured with the Opposite Parties under Private Car Package Policy No. VPC0741805000100, valid from 13/05/2016 to 12/05/2017, on the date of the incident; (ii) the vehicle was seized by police on 25/03/2017 and parked outside Bazar Peth Police Station; (iii) in the early hours of 28/03/2017, the vehicle caught fire and was totally destroyed; and (iv) repudiation of claim was communicated by the insurer on 31/07/2017. Thus, there is no dispute about the occurrence of fire or about the total loss of the insured vehicle. The only question is whether the fire is excluded under the policy conditions.

25. On this aspect, the contemporaneous record of public authorities take up importance. The panchnama dated 28/03/2017 prepared by police, the accidental fire register entry No. 01/2017, and the statement of independent witness Shri Deepak Ramrao Patil clearly record that the vehicle was destroyed due to fire caused by sparking of overhead electric wire near the transformer pole. The fire brigade report dated 01/04/2017

further corroborates this cause and nowhere suggests any human intervention or unlawful activity. The police also communicated to the Executive Magistrate and the Regional Transport Officer that the fire was accidental in nature. These records, prepared by independent authorities in discharge of official duties, carry a presumption of correctness unless rebutted.

26. The insurer has not produced any contrary evidence. The only material pressed into service is the surveyor's report dated 30/05/2017 wherein the officer, after narrating the facts, casually observed that *"it appears the vehicle has been burnt intentionally."* Significantly, the same report acknowledges that the vehicle was in police custody and that accidental fire entry was made in police register. No affidavit of the surveyor has been filed before this Commission to affirm his conclusion. It is well settled that a surveyor's report is a relevant piece of evidence but is not binding and cannot override official records, particularly when the opinion is based on mere suspicion or feeling without supporting material.

27. The attempt of the insurer to connect the present loss with FIR No. 77/2017 dated 25/03/2017 is equally untenable. The said FIR relates to alleged disturbance at Savarkar Hall. The fire incident is distinct, recorded separately in accidental fire register and fire brigade report, and occurred three days later when the vehicle was in police custody. There is no nexus between the earlier FIR and the accidental fire. To read a connection where none exists is a clear attempt to escape liability under the policy.

28. In the circumstances, the repudiation letter dated 31/07/2017 alleging unlawful use is found to be unjustified, arbitrary, and contrary to evidence. The complainant had paid full premium for comprehensive cover, his vehicle was destroyed in an accidental fire while under police custody, and both police and fire brigade reports support his claim. The Opposite Parties have failed to indemnify him despite the loss being squarely covered under the contract of insurance. Such refusal amounts to deficiency in service within the meaning of the Consumer Protection Act, 1986. We therefore answer Issue No. 3 in the affirmative.

Issue No. 4 : What order?

29. Hence, it stands proved that the complainant's vehicle, though seized by police, was destroyed in an accidental fire and repudiation of claim was wholly unjustified. The Opposite Parties are clearly liable for deficiency in service. Hence, we proceed to pass the following order:

FINAL ORDER

1. The consumer complaint is partly allowed.
2. The Opposite Parties are jointly and severally directed to pay to the complainant the insured declared value of Rs. 24,84,250/- (Rupees Twenty Four Lakhs Eighty Four Thousand Two Hundred Fifty only) with interest at the rate of 9% per annum from 31/07/2017 (date of repudiation) till realization.

3. The Opposite Parties are further directed to pay to the complainant a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) towards compensation for mental agony and harassment.
4. The Opposite Parties are also directed to pay to the complainant Rs. 50,000/- (Rupees Fifty Thousand only) towards litigation cost.
5. Compliance of this order shall be made within a period of 60 days from the date of receipt, failing which the entire decretal amount shall carry enhanced interest at the rate of 12% per annum from default till realization.
6. Free copy of this order be supplied to both parties.

[Mukesh V. Sharma]
Presiding Member

[Poonam V. Maharshi]
Member