GOVERNMENT OF JAMMU & KASHMIR
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
BARAMULLA/BANDIPORA

District Consumer Disputes Redressal Commission Baramulla President

Coram: -

1. **Peerzada Qousar Hussain** .... **President**
2. **Ms Nyla Yaseen** ...... **Member**

Consumer Complainant No: 15/2016

Syed Ibrahim Rizvi S/O Syed Akbar Rizvi R/O Malmoh Pattan District Baramulla.

.....(Complainant)

Versus

1. **The Chairman Bajaj Allianz General Insurance Company GE Plaza Airport Road, Yerwada, Pune-411006(India).**
2. **The Manager Bajaj Allianz General Insurance Company at Srinagar.**
3. **J&K Bank Khore Sherabad.**

...... (Opposite parties)

Date of Institution: 25-06-2016
Date of Decision: 15-07-2025

Appearing Counsel
Adv. Javid Ahmad Parry for the complainant.
Adv. F.D Bhat for the OP 1 and 2.
Nemo for OP 3.

Judgement

The present Complaint has been filed by the complainant before the erstwhile District Consumer Forum Baramulla on **25-06-2016** alleging therein deficiency in service on the part of the OP's with prayer to grant following relief: -

1. To register the complaint regarding the loss of the insurance stock of the complainant.
2. Direction to pay an amount of **Rs.3,00,000/-** as cost of the insurance stock which got damaged in the devastating floods.
3. Direction to pay an amount of **Rs.4,50,000/-** as compensation for unfair trade practice and deficiency in service.
4. Direction to pay an amount of **Rs.1,00,000/-** for putting the complainant into mental agony.
5. Direction to pay an amount of **Rs.1,00,000/-** for business loss and **Rs.30,000/-** for litigation charges.

1.Brief Facts: -

The complainant was running a shop at village Malmoh and in order to expand his business he obtained financial assistance by way of loan from the J&K Grameen Bank Khore Sherabad Pattan hereinafter referred to as OP No. 3. The stock of the complainants' shop was insured by the said Bank in terms of insurance policy No OG-14-1205-4092-00036012 dated **13-11-2013.**

2. The complainant was happily doing his business however during the month of September 2014 the devastating floods engulfed his business establishment which remained submerged in water for almost 15 days resultantly the stock of the complainants' shop was damaged.

3. Since the business unit of the complaint was duly insured with the respondents with the aforesaid Bank and the stock of the shop was under hypothecation as such the complainant approached the concerned Bank and submitted a written application requesting therein to get his case processed. Consequently, the Manager of the concerned Bank endorsed a communication to the OP No.1 and 2. However the OP No. 1 and 2 despite receiving the written communication failed to process the case of the complainant and to settle the claim.

4. The contention of the complainant is further that due to the casual and callous approach of the opposite parties the complainant has suffered monetarily and mentally besides the non-settlement of the insurance claim has caused huge loss to the complainant and he could not rehabilitate or restart his business unit which constrained the complainant to approach the erstwhile District Consumer Forum Baramulla for Redressal of his grievances.

Notices were issued to the OP's.

Written version of the opposite parties No. 1 and 2: -

5. The opposite party No 1 and 2 submitted the written version stating therein that the complainant is estopped by his own act and conduct to file and to maintain the complaint as there is no deficiency on the part of opposite parties. The complainant cannot seek directions from this commission for registering the complaint. The complainant has neither lodged any claim nor taken any steps to register the claim with the opposite parties. Hence the complaint is not maintainable and liable to be dismissed.

6. The complainant has got no locus standi to file and maintain the present complaint as there is no deficiency in service or unfair trade practice on the part of the opposite parties as no opportunity has been given to process the claim as per terms and conditions of the policy. The complainant in terms of policy conditions was bound to inform the company about the loss but he has neglected the same and has violated the policy terms and conditions.

7. The contention of the OP No 1 and 2 is further that after the receipt of the claim intimation. The OP's would have appointed the IRDA licensed surveyor

to assess the loss but the complainant has neither approached the opposite parties nor has lodged any claim and there is no question of denial of registration of the claim by the opposite parties.

8.The complaint is a gross abuse of the process of the law and has been filed by the complainant with the sole purpose to harass and pressurise the opposite parties to submit the unreasonable and misused demands. The complaint is based on false and frivolous grounds and has been blatantly fabricated to suit the designs of the complainant. As such the complaint is devoid of the material basis. Moreover, the complainant had not annexed any documentary proof to establish that the intimation regarding the loss has been lodged with the opposite parties and in absence of any proof as to the lodgement of the claim the opposite party denies all the claims registered by the complainant.

9.That the OP's company in the matter of settlement of claim for the loss caused to the insured stock of Kiryana are governed by section 64UM of General Insurance Act and by virtue of the said Act the company cannot settle the claim unless it is referred to IRDA surveyor after receipt of claimed intimation and upon receiving the report from the surveyor, the company can settle the claim as per terms and conditions. As the complainant (insured) has not intimated the company about the alleged loss caused to his insured stocks of retail Kiryana nor any claim stands registered with the company as such the complainant has violated the terms and conditions of the company. The assertions made in the petition are bare allegation and are devoid of any truth as such claim is deserved to be dismissed.

10.Evidence of the complainant: -

The complainant lead to evidence and adduced 5 witnesses namely Syed Mohammad Rizvi S/O Syed Rasool R/O Malmoh Pattan, Mohammad Yousuf Sheikh S/O Mohammad Jaffar Sheikh R/O Malmoh Pattan, Syed Javid Rizvi S/O Syed Ali R/O Malmoh Pattan, Syed Yaseen S/O Syed Mehdi R/O Malmoh Pattan and Syed Ibrahim Rizvi S/O Syed Akbar Rizvi R/O Malmoh Pattan the complainant as witness in his own case.

The witness of the complainant namely Syed Mohammad Rizvi S/O Syed Rasool R/O Malmoh Pattan on cross examination stated that the flood occurred on September 2014 and the police visited the spot there were two parts in the shop of the complainant. The complainant had insured his shop. Some persons of the insurance company visited the spot but does not remember the names. The FIR was lodged regarding the incident. The complainant has insured his stock(shop) in the year 2013 and the policy was valid at the time of flood.

Another witness of the complainant namely Mohammad Yousuf Sheikh S/O Mohammad Jaffar Sheikh R/O Malmoh Pattan on cross examination stated that the complainant is his neighbour who had a grocery shop. The shop of the complainant was insured which got damaged due to the floods. Some persons visited the shop but he does not know whether they were from the company or not. The insurance company was J&K Grameen Bank Khore Sherabad Pattan. The complainant visited the insurance company several times. The complainant had filed a civil suit at Pattan however he does not know whether the case is sub-judice or not. The shop of the complaint is functional at present.

The other witness namely Syed Javid Rizvi S/O Syed Ali R/O Malmoh Pattan on cross examination stated that he is the neighbour of the complainant who had a Kiryana shop which was insured in the year 2013.

Another witness of the complainant namely Syed Yaseen S/O Syed Mehdi R/O Malmoh Pattan on cross examination stated that the flood occurred in the year 2014. The complainant had a Kiryana shop, the stock of the complainant submerged in the water for at least 15 days. The complainant was not able to take out anything from his shop. The stock of the shop was having tea, salt, edible oil, choker. The complainant had insured his shop since police party visited the spot however he doesn't know name of the insurance company. The witness further stated that a litigation was pending disposal before the Pattan court regarding the same loss, but doesn't know whether the case is still sub-judice or not.

The complainant namely Syed Ibrahim Rizvi S/O Syed Akbar Rizvi R/O Malmoh Pattan as witness in his own case stated that he has filed the case in the year September 2014 against the J&K Bank and the Bajaj Allianz Insurance Company. The complainant as witness further stated that he approached the insurance company at Sopore after 8 days of flood as he filed an application. The witness further stated that he had obtained loan facility from J&K Grameen Bank Khore Sherabad Pattan that he had not given any intimation to the insurance company through registered post however he doesn't know whether the J&K Bank after receiving the intimation has approached the insurance company or not.

11.Evidence of the OP: -

The OP's adduced witness namely Muneeb Ahmad Khan the witness on cross examination by the complainants' counsel deposed that he is working with the insurance company since October 2015 and have joined as Junior Legal Executive. The Insurance policy of the complainant has been sponsored by the J&K Grameen Bank Khore Sherabad Pattan which was valid from 14-11-2013 to 13-11-2014. The retail trade of the complainant was insured for **Rs.3,00,000/-**. The witness stated that he cannot say about the loss caused by the flood of 2014. The insurance policy was issued in favour of the complainant on the requisition of the Bank. The communication bearing reference No 2014/180 dated 19-11-2014 has been purportedly issued by

J&K Grameen Bank Khore Sherabad Pattan and addressed to Manager General Insurance Sopore but the same has not been received by the insurance company as the communication was annexed with the copy of the complaint which was presented before the erstwhile Consumer Forum. The witness further stated that he was not working with the Bajaj Allianz Insurance Company in the year 2014 however he is deposing before the Commission on the basis of records. The witness further stated that he has no record with him and he cannot say how many claims have been registered at the time of floods even he doesn't know as to whether it is mandatory to visit the stocks at the time of insurance besides he doesn't know about the renewal of the policy viz its verification of the stocks. The reciprocal liability of the Insurance company is to register the claim, appoint the surveyor and to compensate the complainant. He does not know that how many persons have been compensated from the village.

12. Heard the Ld. counsel for the parties and meticulously perused the records available on file along with the written arguments advanced by the counsel and are of the considered opinion that the complainant is the resident of Malmoh Pattan District Baramulla. He was running a retail shop which was hypothecated with the J&K Grameen Bank Khore Sherabad Pattan and the stock of the complainants' shop was insured with Bajaj Allianz Insurance Company which was valid from 14-11-2013 to 13-11-2014.

13. In the meanwhile, on 8th of September 2014 floods occurred which caused loss to the complainants' shop and stocks consequently, the complainant approached the concerned Bank, with the request to take up the matter with the insurance company. The said Bank in terms of letter No 2014/180 dated 19-11-2014 accordingly addressed a communication to the Manager Bajaj Allianz Insurance Company Sopore requesting therein to register the claim of the insured which fact stands substantiated by the statement of the OP No 3 viz J&K Grameen Bank Khore Sherabad Pattan in the written version annexed with a copy of the communication addressed to the Manager Bajaj Allianz Insurance Company Sopore vide dated 19-11-2014.

14. Since the OP No 1 and 2 were under bounden duty to register the claim of the complainant after receiving the communication from the concerned Bank and to appoint IRDA registered surveyor to assess the loss of the insured stocks of shop, contrary to which nothing has been done in the matter. As a matter of fact, Bank acts as an agent and the hypothecate is considered to be the agent of the insurer furthermore notice to the Bank is deemed to be notice to the insurer.

15. The Hon'ble National Commission in the case titled The New India Assurance Company Ltd. Vs Smt. Poonam Sharma and others (2024) has held that once the Bank forwards the claim it constitutes valid and effective intimation, even if the insurer claims otherwise/non-receipts. Merely stating that the communication has not been received does not suffice. Denial of registering the claim of the insured complainants' shop despite having been informed by the concerned Bank regarding the loss

of the stocks due to floods amounts to unfair trade practice as well as deficiency in service on the part of the OP's.

In view of the aforesaid facts and circumstances the complaint of the complainant is allowed and disposed off with the following directions: -

1. The OP No 1 and 2 are directed to register the claim of the complainant and pay an amount of **Rs.3,00,000/-** the sum assured as compensation for the loss of stocks along with interest @7% from the date of order till its realization.
2. The OP's are further directed to pay an amount of **Rs.1,00,000/-** to the complainant for indulging in unfair trade practice and for putting him into mental agony and harassment.
3. The OP's are further directed to pay an amount of **Rs.20,000/-** as litigation charges.

The OP No 1 and 2 shall comply the order within a period of 4 weeks from the date of order.

Order announced
Date: 15-07-2025

15/07/25
Nyla Yaseen
Member

Member
District Consumer Disputes
Redressal Commission
Baramulla

15/07/25
Peerzada Qousar Hussain
President

President
District Consumer Disputes
Redressal Commission
Baramulla

Office is directed to provide copy of this order to the parties free of cost for compliance and after completion, the file be consigned to records.