

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM  
ERNAKULAM**

**Complaint Case No. CC/20/431  
( Date of Filing : 22 Dec 2020 )**

1. SABU U  
ANJILITHARAYIL HOUSE COLLEGE ROAD,  
MUVATTUPUZHA .....Complainant(s)

Versus

1. ORIENTAL INSURANCE COMPANY LTD  
TH TOWER, STADIUM ROAD, MUVATTUPUZHA .....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. D.B BINU PRESIDENT  
HON'BLE MR. RAMACHANDRAN .V MEMBER  
HON'BLE MRS. SREEVIDHIA T.N MEMBER**

**PRESENT:**

**Dated : 16 Aug 2024**

**Final Order / Judgement**

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, ERNAKULAM**

**Dated this 16<sup>th</sup> day of August, 2024**

Filed On: 22/12/2020

**PRESENT:**

Shri. D.B. Binu	President
Shri. V. Ramachandran	Member
Smt. Sreevidhia. T.N.	Member

**C.C. No. 431/2020**

**COMPLAINANT:**

Sabu U, Anjilitharayil House, College Road, Muvattupuzha – 686661  
(Rep. Adv. Tom Joseph, Court Road, Muvattupuzha 686661)

**V/s**

**OPPOSITE PARTY:**

M/s Oriental Insurance Company Ltd., Divisional Office, TH Tower, Stadium Road, Muvattupuzha—6866673, Represented by its Manager

(Rep. by Adv. Saji Isaac K.J., 311, HB Flats, Panampilly Nagar, Kochi 682036)

**FINAL ORDER****D.B. Binu, President.****1. A brief statement of facts of this complaint is as stated below:**

The complainant, a policyholder of the Happy Floater Mediclaim Policy issued by the opposite party, had a policy bearing No. 441700/18/2020/151 for the period from 06.06.2019 to 05.06.2020, with a sum insured of Rs. 2,00,000/-. During the policy period, the complainant's wife, Mrs. Sheela Sabu, was diagnosed with a right eye cataract and was admitted to Nedumchalil Eye Hospital, Muvattupuzha, on 18.02.2020. She underwent surgery for Right Eye Nuclear Sclerosis Grade III on the same day, and a subsequent procedure for Left Eye Nuclear Sclerosis was performed on 25.02.2020. The complainant incurred an expenditure of Rs. 95,410/- towards these treatments.

Upon submitting a claim for reimbursement of the treatment expenses, the Third-Party Administrator (TPA) of the opposite party approved only Rs. 61,200/- out of the claimed amount of Rs. 95,410/-, citing that the amount paid was reasonable for the procedure. Dissatisfied with this partial settlement, the complainant approached the Insurance Ombudsman for intervention. However, the Ombudsman dismissed the complaint, agreeing with the opposite party's contention.

The complainant argues that the expenses incurred at Nedumchalil Eye Hospital were reasonable and comparable to those charged by other eye hospitals in Kerala. He contends that the deduction of Rs. 34,210/- from the claim amount is unjustified and constitutes a deficiency in service on the part of the opposite party.

The complainant seeks reimbursement of the balance claim amount of Rs. 34,210/- along with interest at the rate of 12% per annum from the date of the claim until realization. Additionally, he claims Rs. 10,000/- as compensation for mental agony, financial loss, and hardship caused by the denial of the full claim amount, as well as the costs of the proceedings.

**2. NOTICE:**

The Commission issued a notice to the opposite party, who subsequently filed their version.

### **3. THE VERSION OF THE OPPOSITE PARTY:**

The opposite party stated that the contract of insurance is governed by the specific terms and conditions of the policy, which are binding on both parties. The opposite party is only liable to compensate the complainant according to these terms, conditions, and exclusions.

The opposite party disputes the claim made by the complainant that the expenses incurred at Nedumchalil Eye Hospital are reasonable compared to other hospitals in Kerala. They assert that the deduction of a significant portion of the claim amount is neither illegal nor constitutes a deficiency in service.

According to the policy, the opposite party is responsible for covering only "reasonable and customary charges" for hospitalization, which are defined as standard charges consistent with those prevailing in the geographical area for similar services. The opposite party highlights that they have already approved and paid Rs. 61,200/- for the complainant's two claims, after applying deductions based on the reasonable and customary clause and a 10% co-pay requirement.

The opposite party also emphasizes that the policy does not cover expenses related to lenses, as per clause 4.6 of the policy conditions, which excludes costs for spectacles, contact lenses, etc. They stated that the complainant is bound by the terms of the policy, and the courts cannot rewrite or substitute the terms agreed upon by the parties.

The opposite party further notes that the Insurance Ombudsman in Kochi dismissed the complainant's complaint, supporting their position. They assert that there has been no deficiency in service or unfair trade practice on their part, and the complainant is not entitled to the claimed amount of Rs. 34,210/- or any compensation or costs. Therefore, they request the commission to dismiss the complaint with costs.

### **4. Evidence:**

The complainant submitted a proof affidavit along with three documents. The documents in the complaint are marked as **Exhibits A1 to A3:**

**Exhibit A1:** Copy of the insurance policy for the period from 06.06.2019 to 05.09.2020.

**Exhibit A2:** Copies of the discharge summaries issued by Nedumchalil Hospital (2 Nos.).

**Exhibit A3:** Copy of the award of the Insurance Ombudsman.

The opposite party submitted two documents. The documents in the complaint are marked as **Exhibits B1 and B2:**

**Exhibit B1:** Policy document

**Exhibit B2:** Award of Insurance Ombudsman

### **5. Points for Consideration:**

The main points to be analyzed in this case are as follows:

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?
- iii) If so, whether the complainant is entitled to get any relief from the side of the opposite party?
- iv) Costs of the proceedings, if any?

## **6. Argument Note Filed by the counsel for the Complainant**

The complaint arises from the deduction of Rs. 34,210/- from the total Mediclaim amount of Rs. 95,410/- by the opposite party, who justified the deduction by claiming they had paid reasonable expenses for the procedure.

The opposite party failed to provide any evidence to support their claim regarding what constitutes reasonable expenses for the procedure. As a result, they are liable to pay the full amount incurred by the complainant for the procedure.

In light of the above, it is prayed that the reliefs claimed in the complaint be allowed.

We have meticulously considered the detailed submissions of both parties, as well as thoroughly reviewed the entire record of evidence, including the argument notes.

### **A. Maintainability of the Complaint**

In the present case in hand, as per Section 2(7) of the Consumer Protection Act, 2019, a consumer is a person who buys any goods or hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. **A Copy of the insurance policy for the period from 06.06.2019 to 05.09.2020. (Exhibits A-1).** Hence, the complainant is a consumer as defined under the Consumer Protection Act, 2019.

### **B. Deficiency in Service and Unfair Trade Practice**

The opposite party's primary defense is that the deductions were made in accordance with the "reasonable and customary charges" clause of the policy. However, they have failed to substantiate this claim with evidence. The complainant, on the other hand, has demonstrated that the charges incurred at Nedumchalil Eye Hospital were reasonable compared to other hospitals in Kerala.

The Commission finds that the opposite party's reliance on the "**reasonable and customary charges**" clause without providing any concrete evidence to support their deductions constitutes a deficiency in service. The opposite party's actions are inconsistent with the principles laid down by the Hon'ble Supreme Court in the Canara Bank case, which requires ambiguity in policy terms to be resolved in favor of the insured.

The opposite party's refusal to fully reimburse the complainant, despite the lack of evidence justifying their deductions, amounts to a clear deficiency in service and an unfair trade practice.

The Hon'ble Supreme Court, in *Canara Bank vs. United India Insurance Co. Ltd. & Ors.* [(2020) 3 SCC 455], held that insurance policies should be interpreted holistically to meet the reasonable expectations of the insured. The Court emphasized that coverage clauses should be interpreted broadly, and any ambiguities should be resolved in favor of the insured. Exclusion clauses should be read narrowly. This precedent firmly establishes that the insured's reasonable expectations must be honored unless explicitly contradicted by the policy's terms.

Given the standard form nature of insurance contracts and the practical difficulties faced by policyholders in understanding every clause, the complaint is clearly maintainable.

In the Revision Petition No. 2513 of 2019 reviewed by the Hon'ble National Consumer Disputes Redressal Commission, referenced a decision by the Hon'ble Supreme Court from the case *Canara Bank vs. United India Insurance Co. Ltd. & Ors.* [(2020) 3 SCC 455]. Held that:

**“9. It was held by the Hon'ble Supreme Court in *Canara Bank vs. United India Insurance Co. Ltd. & Ors.* (2020) 3 SCC 455 that Insurance Policy must be read holistically so as to give effect to reasonable expectations of all parties, including the insured, coverage clauses to be read broadly, and ambiguity, if any, to be resolved in favour of the Insured, exclusions to be read narrowly. Hence, we do not find any reason to interfere with the order of the State Commission.”**

In this cited the Hon'ble Supreme Court case, it was held that an insurance policy should be interpreted as a whole to fulfill the reasonable expectations of all parties involved, particularly the insured. This interpretation means that coverage clauses should be construed broadly, while any ambiguities should be resolved in favour of the insured, and exclusion clauses should be interpreted narrowly.

In light of this precedent, the National Consumer Disputes Redressal Commission found no grounds to interfere with the decision of the Hon'ble State Commission of Rajasthan, effectively upholding the earlier ruling.

Insurance documents are standard form contracts and usually the insured person signs on the dotted line. It would be extremely tenuous to expect a layman to read each and every clause of an insurance document before signing it. On most occasions, a person who intends to obtain insurance has no choice to say NO to a clause in an insurance policy. Medical insurance is primarily obtained for the purpose of unforeseen medical conditions which may affect a person and so long as there has been no fraud, concealment or suppression, at the time of obtaining insurance, policies ought to be honoured. It is usual to see claimants running from pillar to post in order to get medical reimbursement from insurance companies. This case is no different.

The complainant filed this complaint regarding the deduction of Rs. 34,210/- from the total Mediclaim amount of Rs. 95,410/- by the opposite party, M/s Oriental Insurance Company Ltd. The opposite party justified this deduction on the grounds that they had paid reasonable

expenses for the medical procedures performed on the complainant's wife, Mrs. Sheela Sabu. The complainant argued that the expenses were reasonable and that the opposite party's deductions constituted a deficiency in service. The complainant sought reimbursement of the balance amount, interest, and compensation for mental agony and financial hardship.

### **C. Entitlement to Relief**

Given the findings of deficiency in service, the complainant is entitled to the relief sought. The complainant is entitled to the reimbursement of the balance claim amount along with interest.

### **E. Costs of the Proceedings**

The opposite party is directed to bear the costs of these proceedings given their failure to adequately justify their actions and the resulting inconvenience caused to the complainant.

*This decision is made not just on legal grounds, but also with an understanding of the human element that underpins every claim. It is all too common to see claimants struggling, moving from pillar to post, in their quest to obtain rightful medical reimbursements from insurance companies. This arduous journey, often undertaken by those already under the strain of medical and financial burdens, reflects a troubling reality in the insurance sector. The process, which should ideally provide relief and support, instead becomes a source of additional stress, undermining the very purpose of insurance—to offer security and peace of mind in times of need. This decision underscores the fundamental purpose of consumer protection laws—to ensure fairness, justice, and empathy for all, while highlighting the urgent need for a more empathetic and efficient approach from insurance companies to treat policyholders with the fairness and care they deserve.*

We determine that issue numbers (I) to (IV) are resolved in the complainant's favour due to the significant service deficiency and the unfair trade practices on the part of the opposite party in connection with the unauthorized debit from the complainant's account. Consequently, the complainant has endured considerable inconvenience, mental distress, hardships, and financial losses as a result of the negligence of the opposite party.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite party is liable to compensate the complainant for the unauthorized debit from the complainant's account

### **Hence, the prayer is allowed as follows:**

- I. The Opposite Party shall pay ₹34,210/- (Rupees Thirty-Four Thousand Two Hundred and Ten Only) to the complainant for the balance claim amount.
- II. The Opposite Party shall pay ₹5,000/- (Rupees Five Thousand Only) to the complainant as compensation for mental agony, financial loss, and hardship. This amount is awarded for the deficiency in service and unfair trade practices, as well as for the mental and physical hardships endured by the complainant.
- III. The Opposite Party shall pay ₹5,000/- (Rupees Five Thousand Only) to the complainant towards the cost of the proceedings.

The Opposite Party is mandated to comply with the directives mentioned above within 45 days from the date of receipt of this order. Failure to comply with the payment orders under points I and II will result in interest accruing at the rate of 9% per annum, calculated from the date of filing the complaint (22.12.2020) until the date of full payment realization.

Pronounced in the open Commission on this the 16<sup>th</sup> day of August, 2024

Sd/-

D.B.Binu, President

Sd/-

V.Ramanchandran, Member

Sd/-

Sreevidhia.T.N, Member

Forwarded/By Order

Assistant Registrar

### **Appendix**

#### **Complainant's Evidence**

**Exhibit A1:** Copy of the insurance policy for the period from 06.06.2019 to 05.09.2020.

**Exhibit A2:** Copies of the discharge summaries issued by Nedumchalil Hospital (2 Nos.).

**Exhibit A3:** Copy of the award of the Insurance Ombudsman.

#### **Opposite party's Exhibits**

**Exhibit B1:** Policy document

**Exhibit B2:** Award of Insurance Ombudsman

Despatch date:

By hand: By post

kp/

**CC No. 431/2020**

**Order Date: 16/08/2024**

**[HON'BLE MR. D.B BINU]  
PRESIDENT**

**[HON'BLE MR. RAMACHANDRAN .V]  
MEMBER**

**[HON'BLE MRS. SREEVIDHIA T.N]  
MEMBER**