

**Date of filing: 07.10.2023**  
**Date of Disposal: 12.06.2024**

**BEFORE THE III ADDITIONAL BANGALORE URBAN  
DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION, BENGALURU - 560 027.**

**DATED THIS THE 12<sup>th</sup> DAY OF JUNE 2024**

**CONSUMER COMPLAINT NO.283/2023**

**PRESENT:**

**SRI. SHIVARAMA K : PRESIDENT**  
**SRI. CHANDRASHEKAR S NOOLA : MEMBER**  
**SMT. REKHA SAYANNVAR : MEMBER**

Sri. Chetan Stanely Crasta,  
Aged about 44 years,  
R/at No. 18/1, 1<sup>st</sup> Floor,  
20<sup>th</sup> Cross, Rama Temple Road,  
Ejipura, Bengaluru-560047.  
(Sri. Umakanth, Advocate)

.....

**COMPLAINANT**

V/s



1. HDFC Ergo General Insurance Co. Ltd.,  
1<sup>st</sup> Floor, HM Geneva House, Unit No.  
14, 108, 109, 110 & 111, 1<sup>st</sup> Floor,  
Cunningham Road, Bengaluru-560052.
2. HDFC Ergo General Insurance Co. Ltd.,  
1<sup>st</sup> Floor, HDFC House, 165/166 Backbay  
Reclamation, H.T.Parekh Marg.  
Churchgate, Mumbai-400200.  
Rep. by Authorized Signatory.  
(Sri. Lakshminarayan. C, Advocate)

..... **OPPOSITE PARTIES**

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**// JUDGEMENT //**

**BY SRI.SHIVARAMA K, PRESIDENT**

The complainant has filed this complaint u/sec. 35 of the Consumer Protection Act-2019 seeking for a direction to the opposite party No. 1 & 2 to reimburse the medical expenses of Rs.1,76,438/- and interest thereon and such other relief as this commission deems fit in the circumstances of the case.

2. It is the case of the complainant that he was self-employed as a web developer and French teacher. Further, he had obtained health insurance policy from Apollo Munich health insurance called optima restore health insurance policy on 15.05.2018 and has paid premium thereon.



Further, the same was renewed year after year. Further, he was admitted to the hospital for treatment and opposite party had rejected the claim made on the ground that complainant did not disclose the ailment he had while purchasing the policy. Further, the reason given by opposite party is not correct thereby there is deficiency of service on the part of opposite party.

**3.** It is the case of the opposite party that since the complainant concealed the material fact while purchasing the insurance policy, opposite party had rightly repudiated the claim. Hence, there is no deficiency of service on the part of opposite party.

**4.** To prove the case, the complainant (PW-1) has filed affidavit by way of his evidence in chief and got marked Ex.P1 to P6 documents. Counsel for complainant has filed written arguments.

**5.** The points that would arise for consideration are as under:

- i) Whether there is deficiency of service on the part of the opposite party?
- ii) Whether the complainant is entitled for the relief sought ?



iii) What order?

6. Our findings on the aforesaid points are as follows:

**Point No.1:**In affirmative

**Point No.2:**partly in affirmative

**Point No.3:**As per the final order for the following;

### **REASONS**

**7. POINT NO. 1 & 2:-** In order to avoid the repetition facts, we have discussed both the points together. Complainant (PW-1) has reiterated the fact stated in the complaint in the affidavit filed by way of his evidence in chief. There is no dispute with regard to issuance of the health insurance policy by opposite party called optima restore insurance policy on 15.05.2018 and it was in force till 07.05.2022. Further, it is not in dispute that complainant had paid the premium for renewal year after year. It is also not in dispute that in the month of October 2021 due to nasal problem the complainant got admitted to Apollo spectra hospital at Kormangala in Bengaluru. To substantiate the same complainant has produced Ex.P2 surgery prescription, discharge summary, bills and receipts and other E-mail correspondence. It appears in the discharge summary that



the complainant was admitted to the hospital on 26.10.2021 and discharged on 28.10.2021.

**8.** Opposite party had repudiated the claim on the ground that on 26.10.2021 complainant admitted to the hospital with the diagnosis of nasal obstruction and was treated for the same. Further, as the date of the inception of the policy was on 08.05.2018 and on verification it was found that as patient was known case of Steven Jhonson syndrome since 1982, the claim was rejected as the complainant did not disclose the ailment while purchasing the policy.

**9.** On perusal of the discharge summary it appears that on 26.10.2021 the complainant admitted to the Apollo spectra hospital with the history of Epilepsy, Bronchial Asthma, Thyroid disease and Steven Johnson Syndrome (on Tab Allegra) and Septoplasty plus Turbinoplasty 2016. Complainant has produced Ex.P5 the certificate issued by Apollo spectra hospital where in the complainant took treatment. In which it is stated that the history of Steven Johnson Syndrome diagnosed at 2 year of age is not related to the present condition or should be a contra-indication for the above performed surgery. Opposite party did not produce any material to displace Ex.P5. We feel the treatment taken by appellant at Apollo hospital does not relate to the treatment taken by the complainant as asserted in the



repudiation letter. Further, it is the obligation on the part of the insurer to get full details from the insured with regard to his health condition while issuing the health policy. Hence, if it is found later that the insured had concealed any previous disease, the insured cannot be blamed. Hence, we feel opposite party is not right in repudiating the claim of the complainant.

**10.** The complainant claimed a sum of Rs.1,76,438/- with interest towards medical bills. The complainant has produced medical bill for an amount of Rs.1,60,000/- dated: 28.10.2021 and other bill dated: 02.11.2021 for an amount of Rs.1,700, bill dated: 09.11.2021 for a sum of Rs.1,700/- and a bill dated: 21.10.2021 for a sum of Rs.4,700/- and a bill for a sum of Rs.6,138/-. Opposite party did not dispute the genuineness of the documents produced and the claim for Rs.1,76,438/-. We feel the complainant is entitled for the said amount. Further, complainant claimed interest. We feel complainant is entitle for interest at the rate of 9% per annum from the date of repudiation i.e., on 25.11.2021 till realization. Further, for the mental agony suffered the complainant is entitle for a sum of Rs.15,000/- and towards litigation cost a sum of Rs.10,000/-. Accordingly we answer point No. 1 in affirmative and point No. 2 partly in affirmative.

**11. POINT No.3:-** In view of the discussions made above, we proceed to pass the following;



**ORDER**

Complaint is allowed in part. The Opposite Party No. 1 & 2 are jointly and severally liable to pay a sum of Rs.1,76,438/- with interest at the rate of 9% per annum from the date of repudiation i.e., on 25.11.2021 till realization and a sum of Rs.15,000/- towards mental agony and a sum of Rs.10,000/- towards litigation cost.

The opposite party shall comply the order within 45 days. In case the opponents fail to comply the same within the above said period, the above said amount of Rs.25,000/- carries interest at the rate of 9% per annum from the date of order till realization.

Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

Supply free copy of this order to both the parties and return extra copies of the pleading and evidence to the parties.

(Dictated to the Stenographer, typed by him, the transcript corrected, revised and then pronounced in the open Commission on **12<sup>th</sup> day of June 2024**)

  
12/06/24  
**(Rekha Sayannvar)**  
**MEMBER**

  
12/06/24  
**(Chandrashekhar S Noola)**  
**MEMBER**

  
12/06/24  
**(SHIVARAMA K)**  
**PRESIDENT**

**//ANNEXURE//****Witness examined from the side of complainant:**

Sri. Chetan Stanely Crasta, the complainant (PW-1).

**Documents marked from the side complainant:**

1. Certificate u/sec. 65B of Indian Evidence Act is marked as Ex.P1.
2. Surgery prescription, discharge summary, bills and receipts, E-mail correspondence, E-mail repudiation letter and other documents produced by the complainant are together marked as Ex.P2.
3. Denial of claim dated: 01.06.2022 issued by opposite party is marked as Ex.P3.
4. Copy of complaint to insurance ombudsman is marked as Ex.P4.
5. Copy of letter dated: 20.11.2023 issued by Dr. Sampath Chandraprasad is marked as Ex.P5.
6. Copy of policy attached to the complaint is marked as Ex.P6.

**Witness examined from the side of opposite party:**

-Nil-

**Documents marked from the side of Opposite Party:**

-Nil-

 12/06/2024.  12/6  
**(Rekha Sayannvar) (Chandrashekhar S Noola) (SHIVARAMA K)**  
**MEMBER MEMBER PRESIDENT**