

**Complaint No.218/2022**  
**Date of Filing: 26.07.2022**  
**Date of Disposal: 27.05.2024**

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**BEFORE THE DISTRICT CONSUMER DISPUTES**  
**REDRESSAL COMMISSION, MYSORE-570023**

**CONSUMER COMPLAINT No.218/2022**  
**DATED ON THIS THE 27<sup>th</sup> May, 2024**

- Present: 1) Smt.A.K. Naveen Kumari.,  
B.Sc., LL.M., - PRESIDENT  
2) Smt.M.K. Lalitha.,  
M.A., BAL, LL.B., -MEMBER  
3) Sri. MaruthiVaddar  
BA., LLB., (Spl) – MEMBER

COMPLAINANT/S

Nandini.C.S.  
W/o late Nanjundaswamy  
Aged about 32 years Residing  
at #1636,  
Beereshwara Nilaya  
Near Kalabharathi School,  
Yelwala, Mysore-50

(Rep.by.Adv.Veenashree)

V/S

OPPOSITE PARTY/S

The Manager (Legal),  
M/s ICICI Lombard Gen  
Ins com Ltd.,  
204, Mythri Arcade,  
Kantharaj Urs Road,  
Saraswathipuram, near  
Axis Bank, Mysuru,  
Karnataka 570009.

(Rep.by.Adv.R.P.Poornachandra)

<b>Nature of complaint</b>	:	<b>Deficiency in service</b>
<b>Date of filing of complaint</b>	:	<b>26.07.2022</b>
<b>Date of Issue notice</b>	:	<b>29.07.2022</b>
<b>Date of order</b>	:	<b>27.05.2024</b>
<b>Duration of Proceeding</b>	:	<b>1 YEAR 10 MONTHS 1 DAY</b>

**SMT.A.K. NAVEEN KUMARI.  
PRESIDENT**

The complainant has filed complaint against the opposite party for issue of direction to the opposite party to honour the claim by paying sum insured of Rs.15,00,000/- towards vehicle damages along with the interest at 12% from the date of the accident till the date of realization. To pay Rs.50,000/- towards mental agony, unfair trade practice. Rs.3,00,000/- towards parking charges and cost and to grant such other reliefs as the commission deems fit to grant in the interest of justice and equity.

2. The complaint in brief avers as follows:-

That the husband of the complainant was the rider of the motor cycle bearing No: KA-05-JP-9033 had taken the motor vehicle insurance package policy for her vehicle from the opposite party valid from 06.06.2021 to 05.06.2022. The insured had paid premium towards personal accident cover for the driver of total cover is Rs.15,00,000/-. Separate premium of Rs.375 was also collected. The complainant is also nominee of the deceased in the said policy. That, on 01.12.2021 at 6:20 p.m. when the vehicle

reached near KEB office Varuna Village the same met with accident due to wild pig suddenly came on the road. The deceased (injured husband of the complainant) was taken to Kaveri Hospital where he died due to injuries on 05.12.2021. Case was registered vide Cr No.217/2021 Varuna Police Station.

3. There after based up on the complaint lodged by the complainant, the jurisdictional Varuna Police registered crime in FIR No. Cr.No.217/2021 for the offences punishable u/s 279, 304-A of IPC. Then after the investigation filed final report against the deceased abating the case on 30.12.2021. It is contended that since the motor cycle rider was the borrower, he steps into the shoes of the insured and insured has covered PA claim of Rs.15,00,000/-. That the claim form and intimation with all the documents were submitted to the opposite party on 12.05.2022. That private investigation was conducted by the opposite party. But even after the expiry of two months of submitting all the documents this complainant has not heard anything from the opposite party regarding the claim settlement. The complainant has visited their Mysore office several times, but apart from oral assurance, the claim is not settled. Hence, this complaint.
4. After filing of the complaint notice was issued to the opposite party. After service of the notice the opposite party appeared through counsel and filed version which avers as follows:-

It is admitted that the vehicle bearing No.KA-05-JP-9033 was insured with their company in the name of the complainant for the period from 06.06.2021 to 05.06.2022, is subject to the terms and conditions and exclusions therein, but not exceeding the sum insured, as specified in the policy. Hence the liability of this opposite party if any, the same is in accordance with the terms and conditions of the insurance. It is contended that it is not aware about the manner in which the accident occurred on 01.12.2021 about 6.30p.m the vehicle was driven near KEB office Varuna village when the husband of the insured Nandini was riding the scooter at the time of the accident and immediately he was taken to the Hospital where he died on 05.12.2021 and case was registered at Varuna Police Station Vide CR No.217/2021.

5. It is denied that the deceased was the borrower of the said vehicle and he steps into the shoes of the insured and insured covered Rs.15,00,000/-. It is contended that the alleged vehicle bearing registration No.KA-05-JP-9033 was owned by the insured Smt. Nandini.C.S and the personnel accident covered only to the insured and not others. It is denied that intimation with all the documents submitted to the opposite party. That the complainant has not submitted any claim before this opposite party. When the claim form not submitted before this opposite party the question of deficiency does not arise. Hence prays to dismiss the complaint.

6. The complainant has filed affidavit in lieu of evidence and got marked documents as Ex.P1 to P9.

The Legal Manager has filed affidavit in lieu of evidence.

7. The Learned Counsel for both the parties failed to address arguments.

8. Now the points that arise for the consideration of this commission are:-

1. Whether the complainant has proved the deficiency in service by the opposite parties?

2. Whether the complainant is entitle for the relief sought?

3. To what order?

9. Our findings on the aforesaid points are as follows:-

Point No.1:- In the Negative.

Point No.2:- In the Negative.

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

### **:: R E A S O N S ::**

- 10. Point No.1:-** The drafting of the complaint and the relief claimed is confusing. As per the averments made in the complaint it is not clear as to who is the owner of the vehicle bearing No.KA-05-JP-9033 and who has taken the policy. It is contended in the complaint that the complainant is the nominee. In the prayer claimed the sum assured amounting to Rs. 15,00,000/-towards the vehicle

damages. However in the affidavit filed in lieu of evidence the complainant has stated that she has taken the policy. Which discloses that the complainant is the owner of the vehicle involved in the accident. It is understood that the complainant has claimed the sum assured towards the death of her husband namely Nanjundaswamy who died in the road traffic accident.

11. The evidence of the complainant discloses that her husband was riding the motor cycle vehicle bearing No. KA-05-JP-9033 of which she is the owner on 01.12.2021. About 6.30 p.m. while riding near KEB office Varuna Village since a wild pig suddenly came across the road the vehicle fell and her husband suffered injuries who was shifted to Kaveri Hospital where in he has succumbed to injuries on 05.12.2021 in the Hospital. Then crime was registered in Cr No. 217/2021 by the Varuna Police Station. Ex-P2 is the copy of the Final Report which discloses that crime has been registered for the offences punishable under section 279, 337 and 304(A) of the Indian Penal Code. As per the document produced by the complainant she and her child were the triple riders in the motor cycle as on the date of the accident.
12. Ex.P1 is the copy of the Policy which discloses that the complainant is the registered owner of the vehicle. As per this policy premium has been paid towards the

personal coverage of the owner/driver. When the complainant is the insured she cannot be the nominee. As per the final report marked as Ex.P2 the complainant and her 2 years old daughter have sustained grievous injuries. As per the wound certificate the complainant has sustained fracture of 2 incisors and as per the final report she was in the ICU till 4-2-2021. The daughter of the complainant sustained head injury. As per the evidence of the complainant she has intimated the opposite party and has submitted the claim form along with the documents. But the opposite party has denied the submitting of the claim form by the complainant.

13. Ex-P4 is the copy of the letter addressed to the opposite party towards personal accident claim of her husband who died while riding the motor cycle which was insured. When the complainant has submitted all the documents to the opposite party is not known, because the date is not forth coming in the letter. As per the claim form submitted by the complainant marked as Ex-P5 she has affixed her signature as an injured as well as a nominee. One Siddarajappa i.e. the father of the deceased also has affixed his signature on the claim form. The complainant is not the nominee but, she is the insured. The Complainant tried to claim the sum assured by giving false declaration.

14. The opposite party has contended that the complainant has not submitted any claim form. So, it is for the complainant to show that she has submitted claim form. In the copy of the claim form marked as Ex-P5 the date of accident is shown as 05.12.2021 which is not correct. In fact, the date of accident is on 01.12.2021. No document produced by the Complainant to show that the opposite party has received the same. The claim form Ex-P5 is an incomplete document. No document produced by the complainant to show that the opposite party has repudiated the claim. When such is the case it can be said that there is no deficiency in service by the opposite party. Hence we answer this point in the Negative.

**15. Point No.2:-** The Complainant has claimed the sum assured amounting to Rs. 15,00,000/-. The Complainant is the owner of the vehicle and she is the insured.

A **Personal Accident (PA) Cover** in motor insurance provides financial assistance to the insured member in case of accidental death, bodily injuries, permanent partial or total disability, and temporary total disability resulting from an accident. [If the insured person dies due to an accident, the nominee receives 100% compensation from the insurer<sup>1</sup>.](#)

In case any of your family members is driving your vehicle, then they would NOT be covered under your PA cover insurance. However, they can be covered under an extended PA policy which you can purchase by paying additional premium.



In this case the husband of the complainant died in the accident while riding the motor cycle owned by the complainant. So, the contention of the complainant stating that the borrower of the vehicle steps in to the shoes of the insured under PA cover is not correct. There is no relationship of the consumer and service provider between the deceased and the insurer/opposite party. When there is no deficiency in service by the opposite party the complainant is not entitle for the relief sought. Hence, we answer this point in the Negative.

**16. Point No.3:-**In view of answering points No.1 and 2 as above we proceed to pass the following:-

**:: ORDER ::**

**The complaint is dismissed.**

**No order as to costs.**

**Furnish free copy of the order to all the parties.**

**(Dictated to the Stenographer transcribed, typed by her, corrected by us and then pronounced in open Commission on this the 27<sup>th</sup>May, 2024)**

**(A.K. NAVEEN KUMARI)  
PRESIDENT**

**(MARUTHI VADDAR)  
MEMBER**

**(M.K.LALITHA)  
MEMBER**