

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 05.04.2024

Date of Hearing: 16.12.2025

Date of Decision: 30.04.2026

FIRST APPEAL NO. 245/2024

IN THE MATTER OF

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LTD.,

12th FLOOR, DR. GOPAL DASS BHAWAN,

28, BARAKHAMBA ROAD,

CONNAUGHT PLACE,

NEW DELHI - 110001

(Through: Mr. Amit Kumar Maihan, Advocate)

...APPELLANT

VERSUS

POOJA KUMARI

RZ-65, NAND VIHAR,

KAKAROLA,

NEW DELHI - 110078

(Through: Mr. Shripal, Advocate)

...RESPONDENT

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. BIMLA KUMARI, MEMBER (FEMALE)**

Present: Ms. Binny Sethi, counsel for the Appellant.
Mr. Shripal, counsel for the Respondent

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT**JUDGMENT**

1. The facts of the case as per District Commission record are as under:

"1. The present complaint has been filed under Section 35 read with 36 of the Consumer Protection Act, 2019 (in short CP Act) read with Rule 7 of the Consumer Protection (Consumer Commission Procedure) Regulation, 2020 against Opposite Party (in short OP) alleging deficiency of services.

2. Briefly stated the facts of the case are that the complainant had taken a on line health insurance policy bearing no. OG-22-1101-8441-00000599 dated 14.07.2021 from opposite party. It is further stated that said policy was valid from 14.07.2021 to 14.07.2022 for the sum insured of Rs.3,00,000/- (Rupees Three Lakh Only).

3. It is further alleged that the complainant got admitted in the Mahavir Multispecialty Hospital on 01.04.2022 and remained hospitalized till 05.04.2022. The said hospital generated the final bills of Rs.41,530/- (Rupees Forty One Thousand Five Hundred Thirty) which was paid by complainant.

4. The complainant claimed the aforesaid bill amount from the opposite party, but the same was rejected vide repudiation letter dated 21.07.2022 with the reasons stated as under:

Verification of claim documents reveal aforesaid claimant was hospitalized for investigation and treatment of Macrocytic anemia and is claiming for

expenses incurred of INR. 41,530/- (Rupees Forty One Thousand Five Hundred Thirty). We have received a certificate from concern pathologist Dr. K.D. Gandhi (MD Pathology) stating that, submitted pathology reports of the insured using her name are fake. Also as per received documents we have noticed certain discrepancies which are as follow:

1. ICP seems to be written in a single stretch.

2. Lab serial no of the said patients is 5 and another patients shivam singh (5075060), Anita (210042221P) has the same lab serial no how come 3 different patients has same lab serial no. (false and fabricated case).

5. It is also alleged that the present case is being filed within the period of limitation, the cause of action arose when the claim of the complainant was rejected by opposite party on 24.08.2022.

6. It is prayed that OP be directed to pay a sum of Rs.41,530/- (Rupees Forty One Thousand Five Hundred Thirty) to the complainant with pendentelite and future interest @ 18% p.a. since 21.07.2022 till its realization. Cost of litigation be also awarded.

7. Notice of the complaint was issued to OP, OP was served on 07.12.2022. However as written statement was not filed within the statutory period, in view of Section 38(3)(a) of the Consumer Protection Act, 2019 the same was not taken on record and the defence of OP was stuck off vide order dated 14.02.2023.

*8. In this regard the Hon'ble Supreme Court has held in the case titled **New India Assurance Company Ltd. Vs. Hilli Multipurpose Cold storage Pvt. Ltd. reported in 2020 (5) SCC 757** as under:*

"Sub Section (2)(a) of Section 13 of the Consumer Protection Act provides for the opposite party to give his response 'within a period of 30 days or such extended period not exceeding 15 days as may be granted by the District Forum'. The intention of the legislature seems

to be very clear that the opposite party would get the time of 30 days, and in addition another 15 days at the discretion under the Act"

9. Complainant filed her evidence by affidavit reiterating therein the averments made in the complaint. Complainant relied upon policy, the treatment record and the bills issued by Mahavir Multispecialty Hospital, the repudiation letter."

2. The District Commission after taking into consideration the material available on record passed the order dated **08.01.2024**, whereby it held as under:

"10. We have heard the AR of complainant and counsel for OP and perused the record.

11. In view of the unrebutted testimony of complainant and the documents relied upon by complainant, we are of the view that complainant has succeeded in proving that OP was guilty of deficiency of services in repudiating the claim of complainant. It is to be noted complainant was hospitalized during the tenure of the coverage of policy in the panel hospital of OP. We accordingly hold OP/Bajaj Allianz General Insurance Company Limited guilty of deficiency of services and direct OP to pay Rs.41,530/- (Rupees Forty One Thousand Five Hundred Thirty) to the complainant with interest @ 9% per annum from date of filing of claim within four weeks of date of receipt of order, failing which OP will be liable to pay interest @ 12% per annum till realization. We also direct OP to pay compensation of Rs.25,000/ (Rupees Twenty Five Thousand only) for mental agony and harassment.

A copy of this order be sent to all the parties free of cost. The order be uploaded on the website of this Commission.

File be consigned to record room along with a copy of the order."

3. Aggrieved by the aforesaid order of the District Commission, the Appellant has preferred the present Appeal, contending that the District Commission failed to appreciate that as per the certificate issued by the concerned pathologist, Dr K.D. Gandhi, the pathology reports of the respondent using his name are fake / the tests were not done under his supervision and furthermore, the registration of the hospital is still on hold by DGHS, however, the hospital is still treating the patients in IPD. It is further submitted that ICP/medical documents seems to be written in a single stretch and the lab reports of the Respondent carries Serial No. 5. Lab Reports pertaining to two other persons i.e. Mr Shivam Singh 5075060) and Ms Anita (210042221P) also carries same Serial No. Thus, it is submitted that the fact that Lab Reports of three different persons carries same Identification / Serial Number itself suggests towards fraud. Also, the fact that health insurance claims for these two other persons were also lodged upon the Appellant. There is no possibility and probability of such coincidence where lab reports of three different persons have same Number, all three are hospitalized and all have lodged the claim on the Insurer. **Secondly**, it is submitted that as per the Progress record, the Respondent got admitted with low grade fever, tiredness, body ache, giddiness, dyspnoea on exertion, nausea and loss of appetite. However, as per Question No. - 15 of the Insurance Questionnaire, the Respondent was suffering from high fever, vomiting, weakness and pain in abdomen. Similarly, it is submitted that as per the Question No. - 16 of the Insurance Questionnaire, the onset of symptoms were from 31.03.2022 however, as per the progress record, the Respondent had fever from one month. **Thirdly**, it is submitted that RMO charges have been charged in the Final Bill of the hospital. However, as per Question No. 27 of the Insurance Questionnaire, only D.P. Kalra came for visit. Hence, the said final Bill is inflated. It is further submitted that as per Question No. 38 of the Insurance

Questionnaire, the tablets were not given to the complainant during hospitalization but as per the Nurses Daily Progress Record, the tablets were given to the Respondent. *Fourthly*, it is submitted that as per Question No. 57 of the Insurance Questionnaire, the syrup was not given to the Respondent post discharge but as per the Discharge Card, the syrup was given to the Respondent post discharge. It is further submitted that as per the Discharge Card, the Respondent was discharged on 05.04.2022 at 12:42 P.M. However, as per the Nurses Daily Progress Record and the Progress Chart, the Respondent's vitals were noted and injection had been given on 05.04.2022 at 1 P.M. *Lastly*, it is submitted that the District Commission ignored the fact that multiple unrelated / related claims of the similar nature were lodged by the AR of the respondent with common problems in many cases, and has ignored that there is apparent nexus between the patient, hospital and AR. Pressing the aforesaid submissions, the Appellant has prayed that the Impugned Order be set aside.

4. The Respondent has filed the Reply to the Appeal and has stated therein the claim was rightly decided by the District Commission. Secondly, it is submitted that the present appeal is absolutely frivolous and concocted and is filed with the sole motive to waste the precious judicial time of this Commission. Lastly, it is submitted that the District Commission duly considered the material available on record and passed the Impugned Order in all fairness, thus the Impugned Order warrants no interference. Pressing the aforesaid submissions, the Respondent has submitted that the present appeal be dismissed with heavy costs.
5. The parties have filed their brief Written Arguments and the same have been given due consideration
6. We have perused the material available on record.
7. The *only question* that falls for our consideration is *whether the District Commission erred in holding the Appellant liable for deficiency in service.*

8. The facts of the case reflect that the Respondent Insured had taken an online health insurance policy bearing no. OG-22-1101-8441-00000599 from the Appellant which was valid from 14.07.2021 to 14.07.2022, for a sum insured of Rs. 3,00,000/-. The Respondent got admitted in Mahavir Multispecialty Hospital for treatment of Macrocytic Anaemia on 01.04.2022 and remained hospitalized till 05.04.2022. The said hospital generated the final bills of Rs. 41,530/- which was paid by the Respondent. The Respondent thereafter claimed the aforesaid bill amount from the Appellant which was rejected by the Appellant vide repudiation letter dated 21.07.2022, with the reasons stated as under:

“Verification of claim documents reveal aforesaid claimant was hospitalized for investigation and treatment of Macrocytic anemia and is claiming for expenses incurred of INR. 41.530/-(Rupees Forty One Thousand Five Hundred Thirty). We have received a certificate from concern pathologist Dr. K.D. Gandhi (MD Pathology) stating that, submitted pathology reports of the insured using her name are fake. Also as per received documents we have noticed certain discrepancies which are as follow:

1. ICP seems to be written in a single stretch.

2. Lab serial no of the said patients is 5 and another patients shivam singh (5075060), Anita (210042221P) has the same lab serial no how come 3 different patients has same lab serial no. (false and fabricated case).”

9. On the other hand, it is the primary contention of the Appellant that multiple discrepancies were found in the hospital records viz. lab serial number of 3 patients is same and ICP is written in a single stretch, which amounts to Fraud and Misrepresentation in view of the Condition IV(i) & Condition 10 of the standard terms and conditions of the Policy, the claim was rightly repudiated by the Appellant.

10. In order to resolve the aforesaid controversy, we deem it appropriate to refer Condition-IV (i) & 10 of the standard terms and conditions of the Policy, reproduced hereunder as:

“IV. Conditions applicable during the contract

(i) Fraud

If the Insured or any Family Member(s) or any one acting on his/ Family Member(s) behalf shall make or advance any claim which is in any respect fraudulent, or if any false declaration be made or used in support thereof or if any fraudulent means or devices are used or forged and or fabricated claim supporting documents are received by the Insurer from Insured/representative of Insured, to obtain any claim/benefits/indemnities under the Policy or for moral hazard or if the Loss or damage be occasioned by the wilful act, or with the connivance of/conspiracy with the Insured/Family Member(s) of Insured, all benefits under the Policy shall be void and all claims or payments thereunder shall be forfeited

10. Condition precedent to Admission of liability: The terms and conditions of the policy must be fulfilled by the insured person for the Company to make any payments for claims arising under the policy”

11. A perusal of the aforesaid clause makes it clear that the Insurer shall repudiate the claim and shall be entitled to forfeit the premium paid, if it is found that the Insured beneficiary or anyone acting on his/her behalf has resorted to fraudulent means or misrepresentation to obtain any benefit under the said policy. Furthermore, In support of its contention that the submitted documents are fabricated, the Appellant has placed reliance on the denial letter of Dr. K.D. Gandhi (*annexed at pg-208 alongwith the Appeal*), relevant extract reproduced hereunder for ready reference:

“This Report was not verified by me”

12. A perusal of the aforesaid letter reflects that the Appellant got in touch with Dr. K.D. Gandhi who is allegedly the Pathologist as per the reports annexed. Dr. K.D. Gandhi had confirmed to the Appellant that reports of the Respondent-patient were not verified by him. It is further pertinent to note here that there is not even a single whisper of rebuttal to the aforesaid documents in the entire Reply of the Respondent. In our thoughtful opinion, the District Commission has committed a glaring error in arriving at the conclusion that the Respondent was treated by Dr. K.D. Gandhi, when Dr. K.D. Gandhi has himself denied the same.
13. We further deem it appropriate to refer to the report of the Investigator-Aizon Healthcare Services (*annexed at pg-158-161 alongwith the Appeal*), relevant extract reproduced hereunder as:

*“1. Pathologist Dr KD Gandhi confirm that report not verified by him.
(Evidence attached)*

2. Hospital is not registered under DGHS. Hospital applied for the registration on 10/05/2021 but it is still on hold. When the hospital territory is not approved for, IP-treatment by DGHS then how the patients are being treated in hospital in IPD.

3. ICP seems to be written in a single stretch.

4. Lab serial no of the said patient is 5 and another patient Shivam singh-(5075060), Anita (210042221P) has the same lab serial no how come 3 different patients has same lab serial no. (false and fabricated case)

5. As per the icp, patient got admitted with c/o low grade fever, tiredness, body ache, giddiness, dyspnea on exertion, nausea and loss of appetite but as per patient she was suffering from high fever, vomiting, weakness, pain in abdomen, weakness.

6. As per patient onset of symptoms were from 31/3/2022 but as per the ICP it was from 1 month.

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD. VS SMT. POOJA KUMARI

7. RMO charges have been charged in the final bill but patient mentioned Dr. P. Kalra only came for visit hence the bill is inflated.

8. As per patient tablets were not given during the treatment but as per the ICP drug charting it was given.

9. As per patient syrup was not given in post discharge medicine but as per the discharge summary it was given.

10. As per the discharge summary patient got discharged on 5/4/2022 at 12:42pm but as per the ICP vital and drug charting patient vital has been noted and injection has been given on 5/4/2022 at 1:00pm that is post discharge how come patient is discharged and her vital can be noted and medicine was given. (false and fabricated case).

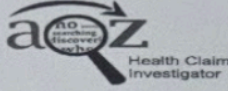
Aaizon Healthcare Services

NURSES DAILY PROGRESS RECORD

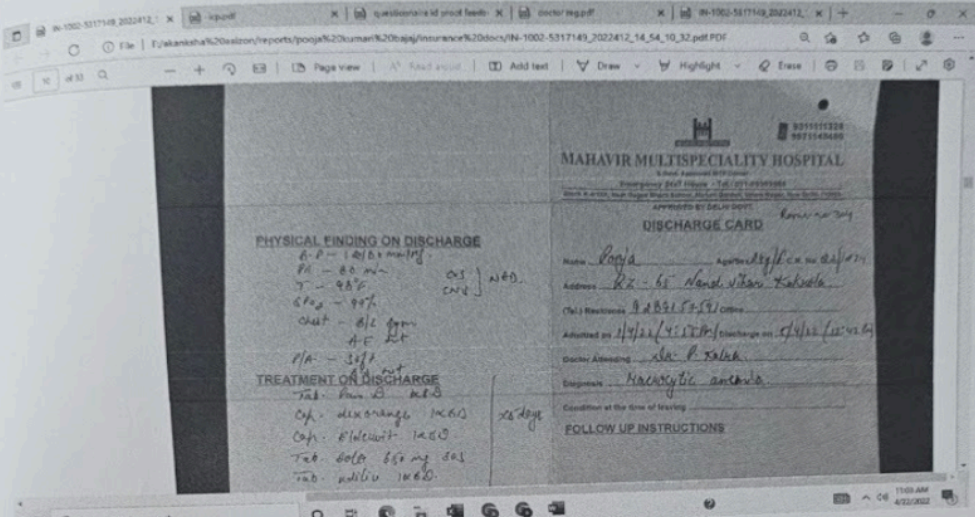
DATE	MEDICINES	DOSE	ROUTE	TIME
	Tab. Paracetamol 500mg	BD	T/O	12:42
	Tab. Metoprolol 50mg	BD	T/O	12:42
	Tab. Mometasone furoate nasal spray	BD	T/O	12:42
	Tab. Chlorzoxazone 500mg	OD	T/O	12:42
	Tab. Mometasone furoate nasal spray	BD	T/O	12:42
	Tab. Paracetamol 500mg	BD	T/O	12:42
	Tab. Metoprolol 50mg	BD	T/O	12:42
	Tab. Mometasone furoate nasal spray	BD	T/O	12:42
	Tab. Paracetamol 500mg	BD	T/O	12:42
	Tab. Metoprolol 50mg	BD	T/O	12:42
	Tab. Mometasone furoate nasal spray	BD	T/O	12:42

TIME	BP	PULSE	TEMP.	RESP.	S.C.	REMARKS
6:00 AM	110/70	96/min	100.4°F	18	96%	
8:00 AM	114/70	94/min	99.4°F	17	97%	
10:00 AM	112/70	70/min	98.4°F	16	97%	
12:00 PM	110/70	70/min	97.4°F	16	97%	
2:00 PM	110/70	88/min	97.4°F	18	97%	
4:00 PM	114/70	88/min	97.4°F	18	97%	
6:00 PM	112/70	82/min	98.2°F	15	97%	
8:00 PM	120/70	90/min	98.2°F	15	97%	
10:00 PM	116/70	90/min	97.4°F	15	97%	
12:00 AM	112/70	96/min	97.4°F	15	97%	
2:00 AM	112/70	88/min	98.2°F	17	97%	
4:00 AM	110/70	88/min	97.4°F	17	97%	
6:00 AM	112/70	81/min	98.5°F	17	97%	
8:00 AM	110/70	82/min	97.4°F	16	97%	
10:00 AM	108/70	82/min	98.2°F	14	97%	
12:00 PM	108/70	81/min	98.2°F	14	97%	
2:00 PM	110/70	81/min	98.2°F	14	97%	

Aaizon Healthcare Services, C 15/A, Shaheen Bagh, Abul fazal Enclave, part 2, Okhla, New Delhi - 110025
 E. mail id : aaizonhealthcare@gmail.com



Aaizon Healthcare Services



The screenshot shows a discharge card from Mahavir Multispecialty Hospital. The card includes fields for Name, Address, Date of Admission, Date of Discharge, Doctor Attending, and Diagnosis. Handwritten notes in the 'PHYSICAL FINDING ON DISCHARGE' and 'TREATMENT ON DISCHARGE' sections are visible. The diagnosis is noted as 'Hypertensive arthritis'. The card also has a section for 'FOLLOW UP INSTRUCTIONS'.

Investigation Opinion:

Fraud has been noted in this claim but final decision is at your discretion and no scope of further investigation at our end now.

Aaizon Healthcare Services, C 15/A, Shaheen Bagh, Abul fazal Enclave, part 2, Okhla, New Delhi - 110025
 E mail id : aaizonhealthcare@gmail.com

Investigation Opinion:
Fraud has been noted in this claim but final decision is at your discretion and no scope of further investigation at our end now”

14. A perusal of the aforesaid investigation report makes it clear that the Investigator visited the Hospital for verification, and found multiple discrepancies in the hospital records which have been discussed in detail in the investigation report viz, Lab serial number of the said patient is 5 and another patient Shivam singh-(5075060), Anita (210042221P) has the same lab serial number, as per the discharge summary patient got discharged on 05.04.2022 at 12:42pm but as per the ICP vital and drug charting patient vital has been noted and injection has been given on 05.04.2022 at 1:00pm i.e. post discharge, Pathologist Dr KD Gandhi confirm that report not verified by him, RMO charges were charged in the final bill but patient mentioned Dr. P. Kalra only came for visit hence the bill is inflated, as per patient tablets and syrup were not given during the treatment but as per the ICP drug charting it was given etc. It is to be noted further that the Hospital is not registered under DGHS. The record reflects that the Hospital applied for the registration on 10.05.2021 but the same was put on hold. It is implausible as to when the hospital is not approved for In-Patient-Treatment by DGHS, then how can the hospital admit patient and provide treatment service in hospital In-Patient Department.
15. Thus, the claim of the Respondent does not subsist since the Respondent has availed treatment in an excluded hospital. Even otherwise, the Respondent has miserably failed to place on record any cogent material to rebut the aforesaid findings of the Investigator. The Reply filed by the Respondent is completely silent on the findings of the Investigator, therefore we find no reason to discredit the submissions of the Appellant.
16. At this juncture, it is pertinent to remark that the Hon'ble Supreme Court and the Hon'ble National Commission have time and again held that it is an established position of law that the surveyor report is an important piece of evidence. The Hon'ble National Commission in *First Appeal No. 1275 of 2014* titled *M/S. Bhupinder Tyres Works vs New India Assurance*

Company Ltd. has held that it is a well-established legal position that survey reports should be given due consideration unless they exhibit non-consideration of material evidence or misrepresentation of facts, relevant extract reproduced hereunder as:

“It is an established legal position that survey reports need due consideration, unless the report reveals non-consideration of material evidence or misrepresentation of facts, which is not the case.”

17. Here, we deem it appropriate to refer to the case of *National Insurance Co. Ltd. vs. Noli Ram and Sons, 2017 (4) CPR 388 (NC)*, the Hon'ble National Commission has held that surveyor report cannot be disbelieved and cannot be rejected without any forceful evidence on the part of the complainant.
18. Similarly, in the case of *Ashish Kumar Jaiswal vs. ICICI Lombard General Insurance Company Ltd. and Ors., 2017 (3) CPR 71 (NC)*, the Hon'ble National Commission has held that the surveyor's report is only reliable document which is to be considered for settling the insurance claim, the petitioner has failed to put forward any cogent reasons to dispute surveyor's report and there is no reason to reject it.
19. Furthermore, in the case of *Pradeep Sharma vs. Bajaj Allianz General Insurance Co. and Anr., 2017 (1) CPR 259 (NC)*, the Hon'ble National Commission has held that the assessment made by surveyor must be given due weightage. Similarly, in the case of *Devender Malhotra vs. United India Insurance Co. Ltd. & Anr., 2016 (3) CPR 461 (NC)*, the Hon'ble National Commission has held that the report made by the surveyor cannot be disbelieved unless there are cogent and convincing reasons to do so; report of the surveyor has to be given effect to unless there are contrary reasons to disregard the same.

20. The principle as laid down in the above-mentioned cases are fully applicable to the case in hand. As per the settled law discussed above, the surveyor report is an important piece of document and it cannot be brushed aside unless and until there is some cogent and believable evidence against it. Here, it is pertinent to note that the Respondent has merely submitted that the entire Appeal is an abuse of the process of law and is filed on false and frivolous grounds. However, the Respondent has not submitted any cogent and reliable evidence that on what basis, the Investigator report was not properly assessed. Thus, we are of the definite opinion that the assessment made by the Investigator is genuine and the Investigation report cannot be brushed aside unless and until there is some cogent and believable evidence against it. In fact, the entire Reply of the Respondent is merely a repetition of the same set of words, bereft of any material particulars or cogent explanation/evidence placed on record to rebut the contentions raised by the Appellant.
21. Thus, in view of the above discussion, it is clear that the District Commission ought to have appreciated that the Investigator had categorically remarked that the claim of the Respondent be repudiated under the Fraud and Misrepresentation clause of the standard terms and conditions, since multiple discrepancies were found in the hospital records, thus proving that there was a clear violation of the terms and conditions of the policy. Therefore, we opine that the claim was rightly repudiated by the Appellant as per the terms and conditions of the policy, after getting the necessary Investigation done and no deficiency of service can be carved out on the part of the Appellant.
22. *Consequently, the present Appeal is allowed and the order dated 08.01.2024 passed by the District Consumer Disputes Redressal Commission-VI, M-Block, Vikas Bhawan, I.P.Estate, New Delhi-110002 is set aside.*

23. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment
24. FDR, if any, be released in favour of the Appellant.
25. The judgment be uploaded forthwith on the website of the commission for the perusal of the parties.
26. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT**

**(BIMLA KUMARI)
MEMBER (FEMALE)**

**Pronounced On:
30.04.2026**

L.R.-G.P.K

