J&K STATE CONSUMER DISPUTES REDRESSAL COMMISSION, JAMMU

APPEAL NO.: 3682 OF 2016
DT OF INSTITUTION: 23/04/2015
DATE OF DISPOSAL: 17/07/2026
Case Title:

KARTAR MOTORS

--- APPEALLANT

Versus

UNITED INDIA INSURANCE CO. LTD, DIVISIONAL OFFICE, GANDHI NAGAR, JAMMU.

--- RESPONDENT

Coram:
Smt. Nighat Sultana, President (O)
Sh. Maheep Gupta, Member

PARTIES REPRESENTED BY:
Adv. YASHODHAN THAKUR, Ld. Counsel for the appellant.
Adv. Vishnu Gupta, Ld. Counsel for the respondent.

17/07/2026

1. The appellant is before us to assail the order dated 26/03/2015 passed by District Commission Jammu in the consumer complaint number DFJ/259/08.
2. Before we proceed further, it is deemed advantageous to discuss the background of the case as under:
   a. The appellant's vehicle that was insured with the respondent Company met with an accident during the currency of the Insurance Policy.
   b. The claim lodged by the appellant was assessed by the surveyor to the tune of Rs.33,318/- but the same was repudiated by the respondent Insurance Company and the decision of repudiation was duly

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conveyed to the appellant by the Insurance Co. vide its letter dated 04/04/2008.

The relevant extract of the repudiation letter is reproduced below:

"This is to inform you that the competent authority has bonafidely considered your claim pertaining to your above vehicle and decided to repudiate the same for breach of following terms and conditions of the policy.

1. That the truck at the time of accident was plying in Punjab though as per its permit was authorized/permitted to be plied on J&K roads only. Thus, the truck was being plied in breach of its permit conditions.

2. Truck at the time of accident was carrying LPG cylinders and was being driven by your driver who was not authorized to drive vehicle carrying hazardous and dangerous goods (LPG being highly inflammable and falls within the ambit hazardous and dangerous goods.

In view of repudiation and closer of your claim, no further correspondence in this behalf shall be entertained."

c. Aggrieved of the repudiation, the appellant filed a complaint with the Ld. District Commission, Jammu that eventually dismissed the Complaint vide its order dated 26/03/2015.

d. Being aggrieved of the order passed by the Ld. District Commission, the appellant is before us through the instant appeal.

3. Heard the Counsels, perused the records.

4. As far as the issue of carriage of LPG cylinders at the time of the accident is concerned, the case of the appellant is that the vehicle at the material time of accident was carrying empty LPG cylinders and the Insurance Company was not justified in repudiating its Claim.

   Per Contra, the case of the respondent Insurance Company is that the vehicle was carrying filled LPG Cylinders at the time of accident and as such the additional endorsement/certificate is mandatory in the instant case.

5. have carefully examined the impugned order and find that the Ld. District Commission had concluded that the vehicle was carrying filled LPG cylinders at the time of accident and the necessary endorsement for carrying

hazardous goods was not done on the Driving License of the Driver at the time of the accident.

We further find that for arriving at the conclusion as to the vehicle carrying filled cylinders at the time of accident, the Ld. District Commission had relied upon the G.R. No. 1407 dated 18/03/2006 as annexed (marked as R-6) by the respondent insurance company along with its written statement.

We have perused the said G.R. and the particulars contained therein are reproduced below:

i. Name of the Consignor: HPCL Narela.
ii. Name of the Consignee: HPCL Dealer Ferozepur.
iii. Load: 306 Cylinders with a total weight of 8.5 Tons.

It is not under dispute that the vehicle met with an accident at/near Moga on 18/03/2006 at around 11.30 P.M.

What is not clear, however, is whether the accident took place during the onward journey from Narela to Ferozepur or during the return journey from Narela to Ferozepur.

It is a settled legal principal that the onus of proving the ground of rejection of claim lies squarely with the Insurance Company who is to prove the factum beyond any reasonable doubt.

Mere reliance on the G.R. of the same date, without any corresponding details as to time of commencement of journey from Narela/ date and time when the cylinders were eventually delivered at Ferozepur it cannot be concluded affirmatively beyond any reasonable doubt that the vehicle met with an accident during its onward voyage from Narela to Ferozepur. Chances of vehicle having met with an accident during its return journey from Ferozepur to Narela cannot be ruled out.

We, therefore, feel that the Ld. Distt. Commission, in absence of any conclusive proof, should have extended the benefit of doubt to the Complainant.

6. As far as the question of route permit is concerned, it is not under dispute that the vehicle was having a route permit to operate in the state of J&K only and apparently the vehicle was operating in the state of Punjab which is a clear breach of route permit/policy conditions.

7. Now the question that needs to be determined is whether the breach is substantial and having some direct nexus with the cause of accident to justify the repudiation of the claim in toto by the Insurance Company.

   From the perusal of the repudiation letter, it is clear that the only ground taken by the Insurance Company is a mere breach of the route permit/policy conditions.

   It is not a case of the Insurance Company that the breach was a substantial one or having a direct nexus with the cause of accident.

   We are of the concerned opinion that in the given circumstances, the Ld. District Commission should have been guided by the ratio laid down by the Hon'ble Supreme Court in the case title, "Amlendu Sahoo V/S Oriental Insurance Company Ltd." [Civil Appeal No. 2703 of 2010, Dt of order: 25/03/2010].

8. It is no where under dispute that a vehicle carrying filled LPG Cylinders would require the endorsement for carriage of Hazardous Goods on the driving license, however, it is also well settled that no such endorsement is required in case of vehicle carrying empty cylinders. **[APPEAL NO. 3882 OF 2016, Dt. Of Institution: 21/11/2016, DT. OF DISPOSAL: 19/05/2026, "Kartar Goods Transport Co. V/S Reliance General Insurance Co. Ltd. (JKSCDRC)]**

   Since in the instant case, the Insurance Company failed to prove conclusively that the vehicle met with an accident during its journey from Narela to Ferozepur, we extend the benefit of doubt to the appellant and assume the vehicle having met with an accident during its return journey and was carrying empty cylinders at the time of accident & consequently there was no requirement of additional endorsement on the driving license for carrying hazardous goods.

   As far as the issue of breach of route permit is concerned, we take the guidance of the ratio laid down by the Hon'ble Supreme Court in the case title, "Amlendu Sahoo V/S Oriental Insurance Company Ltd." [Civil Appeal No. 2703 of 2010, Dt of order: 25/03/2010] & direct the O.P. Insurance Company to settle the claim on non-standard basis.

9. It is not under dispute that the Insurance Company had deputed a surveyor to assess the loss who had assessed the loss to the tune of Rs.33,318/-.

It is also not under dispute that the Complainant is satisfied with the assessment done by the Surveyor, however, he is claiming an additional compensation for Rs.2,500/- on account of towing charges for shifting the vehicle for repairs from place of accident to the workshop at Jalandhar besides claiming compensation for the mental torture/ delay & litigation expenses.

We have perused the survey report and find that no towing charges have been allowed by the Surveyor in his report and the Complainant needs to be indemnified for the same as per the terms and conditions of the policy.

We also find that an amount of Rs.500/- has been quantified as the value of the salvage which also needs to be deducted from the total claim assessment of Rs. 33,318/-

The net liability of the Insurance Company, on standard basis, thus comes to Rs. 35,318/- (33,318 – 500 + 2500).

The net liability of the Insurance Company on non-standard basis comes to Rs.26,489/- (75% of 35,318)

10. Respondent Insurance Company is directed to pay Rs.80,414/- to the appellant, calculated as under:

Net liability of the Ins. Co. on non-standard basis.	26,489
Compensation for delay in settlement of loss, calculated @ 7% on Rs.26,489/- for 6678 days [from 04/04/2008 (date of repudiation) to 17/07/2026 (date of instant order)]	33,925
Litigation Expenses	20,000
Total	**Rs.80,414**

<u>Judgment:</u>

i. **The appeal is allowed and the impugned order dated 26/03/2015 passed by the District Commission, Jammu is set aside.**

ii. **Respondent Insurance Co. is directed to pay to the appellant, within 30 days of this order, an amount of Rs.80,414/-. In case of failure to adhere to the stipulated period of 30 days, the respondent Insurance Co. shall be further liable for an interest**

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@7% p.a. on the entire amount of Rs.80,414/- to be calculated from 18/07/2026 till the final deposition of the amount.

iii. **Parties to bear their own costs.**

iv. **Office is directed to send back the records pertaining to District Commission & provide a certified copy of the order to all the stakeholders.**

v. **Office is also directed to consign the file to records after due compilation.**

Announced: 17/07/2026

(Maheep Gupta)
Member, JKSCDRC

(Nighat Sultana)
President (O), JKSCDRC

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