J&K STATE CONSUMER DISPUTES REDRESSAL COMMISSION, JAMMU

APPEAL NO.: 39 OF 2025
DT OF INSTITUTION: 27/04/2025
DATE OF DISPOSAL: 17/07/2026
Case Title:

SBI GENERAL INSURANCE COMPANY LTD, 46, III^RD FLOOR, KAROL BAGH, PUSA ROAD, OPP. METRO PILLAR NO. 129, NEW DELHI - 110005

--- APPEALLANT

Versus

MOHD. TAJ, S/O ABDUL KARIM, R/O MANYAL, TEHSIL THANNAMANDI, DISTRICT RAJOURI.

--- RESPONDENT

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

PARTIES REPRESENTED BY:
Adv. DIWAKAR SHARMA, Ld. Counsel for the appellant.
Adv. ABRAR AHMAD KHAN, Ld. Counsel for the respondent.

17/07/2026

1. The appellant is before us to assail the order dated 29/01/2025 passed by District Commission Jammu in the consumer complaint number DCDRC/032 [Date of Institution 20/02/2023 – CPA 2019].
2. The appeal was filed belatedly with a delay of 35 days. Delay was condoned on 30/09/2025.
3. The appellant is before is aggrieved of the directions passed by the Ld. District Commission whereby the appellant company was fastened with a liability of Rs.28,85,000/- in total besides an interest liability @2% on Rs.28,00,000/- (base amount) p.m. from the date of the complaint.

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The main grouse of the appellant company is that not only the Ld. District Commission had failed to appreciate non-admissibility of the insurance claim under the policy terms and conditions, it had completely ignored the assessment done by the Surveyor quantifying the loss to be Rs.95,330/- and had instead awarded an amount of Rs.28,00,000/-

The appellant is further aggrieved of levy of 24% interest p.a. (2% per month).

4. Heard the Counsels, perused the records.
5. There are three issues that need to be determined by us:
    i. Admissibility of the Loss under the terms and conditions of the policy.
    ii. Reasonability of Quantum of Compensation as allowed by the Ld. District Commission.
    iii. Reasonability of the Interest levied by the Ld. District Commission.

6. We have carefully examined the records and also the impugned order and shall proceed to settle the aforesaid issues:

i. Admissibility of the claim under Policy terms and Conditions:

Before we proceed further, we would like to reproduce the relevant extract of table item No. 6 of Clause B of the Policy wordings dealing with the losses caused by Subsidence, Land Slide & Rockslide as under:

	Column A (What is covered)	**Column B (What is not covered)**
6.	Subsidence of the Land on which your Home Building stands, Landslide, Rockslide.	Caused by: a. normal cracking, settlement or bedding down of new structures. …….

The case of the complainant (respondent) is that his residential house got damaged due to the landslides caused by the heavy rains which is covered under the Insurance Policy.

Per Contra the case of the Insurance Company is that the cracks to the building were regular in nature and have developed over

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a period due to normal settlement which is not covered under the Policy terms and Conditions.

Both the parties had led their evidences to support their contention.

Whilst the Insurance Company relied on the observations and testimony of the Surveyor, the respondent/complainant relied on the certificate No. 2278 dt. 24/12/2022 purportedly issued by the Tehsildar Thannamandi, confirming the loss to have been caused by Landslide. It is pertinent to note that the said certificate was issued by the concerned Tehsildar on the basis of the ground report submitted by the concerned Patwari Halqa Sh. Niaz Ahmed.

It is observed that the veracity of the aforesaid certificate issued by the Tehsildar was challenged by the O.P. Insurance Company, however, it is also a fact that the complainant moved an application for summoning the concerned Patwari Halqa whose ground report formed the basis of the certificate issued by the Tehsildar.

We have also perused the examination/cross-examination statement of the concerned Patwari Halqa & find that he stood by his report and confirm the loss to have been caused by the Landslide.

We have no reasons to disbelieve the statements made by the concerned Patwari and hold that the loss was caused by "Landslide" which is a insured peril under the policy.

The claim filed by the Insured is as such very much admissible under the Policy terms & conditions.

ii. Reasonability of Quantum of Compensation as allowed by the Ld. District Commission.

From the perusal of the records, we find that there is a huge gap between the loss assessed by the Surveyor, i.e., Rs.95,330/- & the loss claimed by the Complainant, i.e., Rs. 41,14,458/- (based on the estimate prepared by Architect Sh. Shahnawaz Sharief).

We further find that both the Surveyor & the Architect were duly examined/cross-examined & both stood by their respective stands.

We further observe that the Ld. Commission ignored both the assessment as well as the estimate submitted by the Architect and ordered the Insurance Company to pay Rs. 28.00 Lakhs to the Complainant.

We are not satisfied with the reasoning of the Ld. District Commission and are of the considered opinion that in such a scenario when both the parties struck to their respective stands and a huge difference in the assessment and the claimed amount, ordering reassessment of the Loss perhaps was the best recourse for a fair adjudication of the case.

iii. **Reasonability of the Interest levied by the Ld. District Commission.**

We are of the concerned opinion that any compensation for delay should be based on the prevalent market rates with some reasonable hike. Any substantial award of interest in comparison to the prevalent bank rate must be backed by logical reasoning.

7. After a holistic consideration of the facts and circumstances of the case, we deem it appropriate to remand back the case to the Ld. District Commission to revisit their order to the limited extent of award of fair quantum of loss/indemnity & interest.

We make it clear that the since the issue of the admissibility of the claim under the policy terms and conditions has already been determined by us and the claim has been held to be admissible under policy terms and conditions, it shall not be open for the Insurance Company to agitate on the issue any more.

District Commission is directed to depute some IRDA approved Insurance for conducting the reassessment of the loss.

Deputation of Surveyor/ carrying out the reassessment shall be regulated as under:

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a. **Insurance Company shall provide a panel of three IRDA approved Surveyors having degree in Civil Engineering/ Structural Engineering to the District Commission on the next date, i.e., 17/08/2026.**
b. **District Commission shall appoint one of the surveyors, from the panel as chosen by the complainant, for carrying on the re-assessment.**
c. **Admissibility of loss under policy shall not be questioned by the Surveyor so appointed and his job shall be confined to quantification of loss/ net liability of the Insurance Company as per terms and conditions of the policy.**
d. **The Surveyor shall visit the site positively within 7 days of appointment after prior information to the Complainant so that the Survey is conducted in his presence.**
e. **Complainant shall extend all the necessary cooperation to the Surveyor and shall provide all the requisite information as required by the Surveyor.**
f. **The Survey shall be completed & the report of the same shall be submitted to the District Commission positively without any fail within 30 days of survey.**
g. **In case of disagreement with the re-assessment report, liberty shall be granted by the District Commission to the Complainant to rebut the same. Complainant shall also be granted the right to cross-examine the surveyor, if so desired by him.**
h. **Cost for conducting the re-assessment shall be borne by the Insurance Company.**

Judgment:

i. **The appeal is partly allowed and the impugned order dated 29/01/2025 passed by the District Commission, Rajouri is set aside.**
ii. **The complaint is remanded back to the Ld. District Commission in terms of directions vide para 7 hereinbefore.**
iii. **Parties are directed to cause their presence before the Ld. District Commission on 17/08/2026 for further proceedings.**

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iv. **Parties to bear their own costs.**
v. **Office is directed to send back the records pertaining to District Commission & provide a certified copy of the order to all the stakeholders.**
vi. **Office is also directed to consign the file to records after due compilation.**

Announced: 17/07/2026

(Maheep Gupta)	**(Nighat Sultana)**
Member, JKSCDRC	President (O), JKSCDRC

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