GOVERNMENT OF JAMMU & KASHMIR
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
KUPWARA

Coram: -

1. **Peerzada Qousar Hussian** .... **President**
2. **Ms Nyla Yaseen** ...... **Member**

Consumer Complainant No:65/2024

1. **Abdul Gani Pir**
   S/o Mohd Jamal Pir
   R/o Manzgam, Tarathpora, Handwara.
2. **Rukhsana Begum**
   W/o Gul Riyaz Shah
   R/o Bonibeth, Tarathpora, Handwara.

.....(Complainant)

Versus

1. **Bajaj Allianz General Insurance Company Ltd.**
2. **Jammu and Kashmir Bank, Branch Tarathpora, Handwara.**

District Consumer Disputes Redressal Commission Kupwara

...... (opposite parties)

Date of Institution:29/05/2025
Date of Decision: 27-08-2026

Appearing Counsel:
For the complainant: -Adv. Anzar Aalam and Associates
For the OPs: - Adv. Shah Khalid & Adv. Zubair Ahmad Wani & Associates.

Judgement

The instant complaint has been filed by the complainants before this commision on 11-07-2024 alleging therein negligence on the part of OPs with prayer to direct the OP1 to reimburse the complainants for the loss caused to their property along with the compensation.

Brief Facts

The complainants are residents of UT of J&K and in order to generate the employment, established a Hollow Bricks tiles unit after obtaining loan from the J&K Bank branch Tarathpora, Kupwara hereinafter referred to as OP2. The said unit as well as the shed was insured with OP1 which was effective from 29-09-2021 to 28-09-2022. However, during the subsistance of the insurance policy, a fire incident broke out on 20-03-2022 which damaged the entire machinery and the shed. An FIR was consequently lodged at police station vilgam, Kupwara. **Fire & Emergency Department** confirmed the occurrence of the fire incident on 20-03-2022 and damages of the unit and residential house and issued a report in this regard vide No. **ADK-FRC-22-517 dated 08-04-2022.** The **Tehsildar Ramhal** also issued a report in this regard and confirmed the damage of the Hollow Bricks unit of the complainants.

Contention of the complainants is that residential building was insured for Rs.**7,00,000/-**(Seven Lacs Only) being policy No. **OG-22-12294056-00000-8930** in the name of complainant No.1 and the Hollow Bricks unit was insured for Rs. **12,00,000/-**(Twelve Lacs Only) being policy No. **OG-22-1229-4056-0000-4867** in the name of complainant No.2.

Contention of the complainants is further that their residential house and the **Hollow Bricks** unit got damaged including one generator and one brick machine along with other material. The complainants continuously approached the OP1 for settlement of the insurance claim, however, the OP1 turned a deaf ear towards their claim which constained the complainants to approach this District Commission Kupwara for redressal of their grievance.

Upon notice, the OP1 submitted the written statement in the matter. Contending therein that the complainants have filed a complaint without evidencing any deficiency in service or unfair trade practice. The complainant No.1 was issued policy in the name of **Pir Hollow Bricks** vide policy No. **OG221229-4056-00008930** which was effective from **29-09-21 to 28-09-22** for the total sum insured of Rs. **7,00,000/-**against the stock of the unit and another policy was issued in the name of Rukhsana Begum vide policy No. **OG-22-1229-4056-00004867** Which was effective from 12-07-2021 to 11-07-2022 for the total sum insured Rs of 12,00,00/- The OP1 further contended that the policies were issued subject to terms and conditions.

Upon receiving the information about the incident, an independent **IRDA Licenced Surveyor** namely **Mehraj-Ud-Shah** was appointed as surveyor to asses the loss on 25-03-2022. The surveyor visited the site and after carrying out detailed investigation, he submitted first elaborative final survey report on 28-04-2022 which revealed that the fire had operated in the entire unit. The building was seen damaged due the fire and the roofing as well as the machinery, doors and the windows were seen completely gutted. However, he did not notice any kind of stock at the site as the unit was not running during winter. As the surveyor did not notice any stock at the site during the course of his visit as such he requested to close the subject claim and treat the same as no claim. It was further contended that the policy No. **OG-22-1229-4056-00004867** was issued in the name of Rukhsana Begum whereas the unit was a soul proprietorship firm and unless the insurerable interest of Rukhsana Begum is proved that the complainant should not proceeded for trail. It was further contended that as per the findings of the surveyor, it was found that the loss was covered by the National Insurance Company also vide policy No. **42100411210000126** and **42100459211000030**5 and **42100411211000012**7. It was further contended by OP1 that since the obligation of the respondent will only imminate once the complainants have performed their part of the obligations, and the complaint is liable to dismissed. The main contention of the OP1 is that no stock was noticed at site when the survey was carried out, as such the claim of the complainant was repudiated.

The OP2 also submitted the written objections in the matter contending therein that the complaint is not maintainable against OP2. The complainants have not come before this commission with clean hands as they have supressed the material facts from the commission. The OP2 further contended that the complainants have obtained loan from OP2 for the purpose of business and he has to do nothing with the settlement of the insurance claim of the complainants. The loan availed by the complainants was secured by the mortgage of residential house along with business unit. There is no deficiency in service on the part of the OP2. The OP1 was well informed about the loss after coming to know about the occurrence of the incident.

The complainants adduced the witnesses in the matter and as witness in his own case on cross-examination stated that the unit was situated at Tarathpora, Kupwara where the tiles and Hollow Bricks were manufactured since the year 2015. The incident occurred on 20-03-2022. He availed loan of Rs.40,00,000/- (Forty Lacs Only), Rs.25,00,000/- (Twenty Five Lacs Only) in his name and Rs.15,00,000/- (Fifteen Lacs Only) in his daughter's name. The unit was insured in 2015. The insurance was valid from 2015 to 2023. He was not present on spot. His wife lodged an FIR. He infirmed the bank about the incident and the bank informed the insurance company.

Another witness of the complainant namely Ab Rashid Khan on cross- examination stated that the Hollow Bricks are being supplied from Tarathpora. He was at his residence at the time of occurrence of the incident. He visited the site and the fire was live. He knows about the loss suffered by the complainants. The unit was insured. There was loss of residential house, mixer, generator. The insurance representatives visited the site after days. He does not know about any payment received by the complainant.

Another witness namely Peerzada Ab Rashid, on cross-examination stated that he is a journalist. The complainant is his relative. He used to visit the unit to check the documents, however he was not partner. The complainant had insurance policies of two companies; but do not know the name of company. The sum assured with Bajaj was Rs.45,00,000/- (Forty-Five Lacs Only), he does not know the details as he was going to Srinagar when the incident occurred and when he reached there the unit was burnt down.

Another witness namely Mohd Maqbool Khan on cross-examination stated that the hollow bricks unit belongs to Abdul Gani Pir S/o Mohd Jamal Pir . Fire incident occurred at Tarathpora in the unit on 20-03-2022 approximately. There was about 70% damage. He heard that the insurance company visited the spot. Then stated that the insurance representative visited the spot who obtained date about the incident. The complainants approached insurance company several times for release of claim but the insurance company did not release any amount. The insurance company was Bajaj Insurance Company.

The OP1 adduced their witnesses in support of their plea namely Ovais Ahmad Bala S/o Reyaz Ahmad Bala, Mehaj-Ud-Shah S/o Mohammad Sadiq Shah and Muneeb Ahmad Khan S/o Ghulam Nabi Khan.

On cross examination the OP's witness namely Ovais Ahmad Bala deposed that he has investigated the bills and supplies confirmed in writing that the bills have been issued in blank to the party and no sales has been affected, however, he does not know about the submission of bills and he did not visit any shop personally and he has no knowledge about the bills.

Another witness namely Mehraj-Ud-Shah S/o Mohammad Sadiq Shah of the OP1, on cross-examination stated that he is working as **Surveyor.** He did not approach any dealer for verification of bills. He has not visited any wholesaler as his job is to assess the loss only. The witness further stated that as per his report the shop of the complainant was fully damaged and later stated that the fire was constrained to one corner. He does not have any information with regard to the bills. The investigation report has been gathered from the investigation report.

Another witness namely Muneeb Ahmad Khan S/o Ghulam Nabi Khan on cross-examination stated that he is working as Law Officer in the insurance company. The bills have been received by the surveyor. He is not dealing with the case. He does not know whether the complainants visited the insurance company or not. He relied upon the surveyor's report.

Perusal of the Surveyor's report reveals that the surveyor has acknowledged the damage of the building of the complainants including doors, windows, roofing, etc. Additionally, the fire service report reflects that the residential building of the complainant No. 1 situated at Tehrathpora, Ramhal and one Hollow Bricks factory belonging to the complainant No. 2. involved in fire, roofing, ceiling, doors, windows and household goods of the residential house along with heavy duty D. oil generator, two hollow bricks tile making machines, one mixer, one vibrator, tin moulds of the factory were severely damaged due to fire, heat and smoke.

Having meticulously considered the material as well as the report of fire and emergencuy services placed on record. We find that the OPs have not disputed the existence of the insurance policy in the occurrence of the fire incident. The entire defence revolves around the alleged absence of the stock at site. The burden of proving the grounds of repudiation lies upon the insurer. There is no plausible evidence on record to justify the repudiation. Additionally, no independent evidence has been adduced by the OP1 to establish that the complainant was not carrying his business. Furthermore, the surveyor's report reveals that the residential building insured in the name of the complainant No.1 was damaged. The said evidence comes from the surveyor's report who authenticates the loss of the damaged residential house of the complaint No. 1.

A surveyor's report undoubtedly carries considerable value. However, the surveyor's report cannot be treated as conclusive proof particularly when the same is not supported by any evidence. The insurer was duly bound to undertake a fair, impartial and objective assessment of the loss suffered by the complainants in respect of the insured property rather than repudiating the claim on mere assumptions.

The Hon'ble Supreme Court has consistently held that the report of the surveyor is an important piece of evidence but it is not the last word.

Keeping in view the pleadings of the parties and the ratio decidendi laid down by the Hon'ble Supreme Court, the complaint of the complainants is partly allowed and disposed of with the following directions:

1. OP1 is directed to pay Rs 4,00,000/- (Four Lakh only) to the complainants for the loss caused to the residential house along with interest @ 6% from the date institution of the complaint till its realization.

2. OP1 is further directed to pay an amount of Rs 1,00,000/- (One Lakh only) to the complainants as compensation for repudiating the claim and causing harassment and inconvenience.

The OP1 shall comply with the order within a period of 4 weeks from the date copy of this order is served upon the OP1, failing which the entire awarded amount shall carry interest at the rate of 10% per annum from the date of order till its realisation.

Order announced
Date: 27-08-2026

Nyla Yaseen
Member

Peerzada Qousar Hussain
President

Copy of this Order be provided to the parties free of cost and file be consigned to records after due completion.