J&K STATE CONSUMER DISPUTES REDRESSAL COMMISSION, SRINAGAR

C.C.: 37 of 2016, Date of Institution: 25/04/2016

Date of Disposal: 15/10/2026

1. **MUZAFFAR AHMAD DAR**
2. **UBAID AHMED DAR**
   BOTH S's/O LATE ABDUL REHMAN DAR, R/O MAHATAJPORA BYEPASS, BATMALOO, SRINAGAR, J&K

--COMPLAINANTS

Versus

1. **NATIONAL INSURANCE COMPANY LIMITED, 3, MIDDLETON STREET, POST BOX NO. 9229, KOLKATA - 700071.**
2. **POLICY ISSUING OFFICE AT MAULANA AZAD ROAD NEAR EXCHANGE ROAD SRINAGAR.**

– OPPOSITE PARTIES

Coram:
Smt. Nighat Sultana, President (O)
Sh. Maheep Gupta, Member
Parties represented by:
Sh. F.A. BHAT, Ld. counsel for the Complainants.
Sh. N.A. DENDRU, Ld. Counsel for O.P. s

Order dated 15/10/2026 (Per Mr. Maheep Gupta, Member)

1. Considered the records, evidences and the written arguments filed by the parties.
2. The Complainants claims to have suffered a loss to the tune of 35 Lakhs due to damage to his residential house and the household goods caused by the flood like situation created by heavy rainfall & snowfall on 9th February, 2015. They further allege that despite of a timely intimation to the Insurance Co.

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neither a surveyor was deputed by the O.P. Insurance Co., nor any details were sought from him in respect of the damages suffered by him.

The complainants are before us with the prayer to direct the O.P. Insurance Company to pay Rs.31.50 Lakhs being the policy Sum Insured besides Rs.50,000/- each for mental torture and litigation charges.

We deem it advantageous to reproduce Para 6 of the Complaint as under:

> ***"6. That the insurance company neither deputed any Surveyor to visit the business of the complainant/ applicant and also did not sought the details of the damage as according to complainant he has suffered about Rs 35 lacs damage even the petitioner got a report of loss from the police station also."***

3. Per Contra, the O.P. Insurance Company claims to have deputed IRDA authorized surveyor M/S Andrabi Surveyors who recommended to file the claim as "No-Claim" vide his report No. 1178/SR/NIC-06/2015-2016/1975-76 dated 10/04/2016.

   O.P. Insurance Company also claimed that the complainants were duly informed beforehand by the Surveyor of his intent to recommend the claim to be filed as "No Claim" vide his letter No. 1178/Ltr/2014-15 dated 27/04/2015.

4. Before the case could be adjudicated, this Commission was winded up in the m/o October 2019. Consequent to the revival of the commission, the case was taken up on 14/02/2024 for resumption of proceedings & O.P.s were directed to lead their evidence.
5. O.P. failed to lead any evidence and the right to lead the evidence was eventually closed on 02/05/2025.
6. Counsel for the Complainant filed his written arguments on 10/11/2025 whereas the counsel for the O.P. filed his written arguments on 01/04/2026 and the parties were directed to conclude their arguments.
7. Sufficient opportunities were granted to the parties to conclude their arguments and since the counsels could not conclude the same, the case was taken up for disposal on merits.
8. On the perusal of the Complaint and the witness affidavits and the supporting documents filed by the complainant we find that no documentary

evidence has been furnished by the Complainants to substantiate their averment of having suffered a loss to the tune of Rs.35.00 Lakhs as claimed by them.

Needless to state that the complainant's duty does not end with proving the loss having caused by the insured perils and falling within the policy period, they are also duty bound to substantiate its quantification as well, which is not the case here.

9. From the perusal of the evidence affidavits filed by both the complainants on 05/04/2018, we find that they have struck to the same story that neither any surveyor was deputed by the Insurance Company nor any details were sought by them.

   This is despite the fact that the insurance company had filed its written statement on 30/08/2016 whereby not only it claimed to have deputed the Surveyor but also claims to have repudiated the claim after proper prior intimation to the Complainants.

   We have also perused the cross-examination statements of the both the complainants and find that both the complainants admitted that the Surveyor had visited their place after 3 days of the occurrence of loss, however, they denied having received any intimation letter from the Insurance Company.

   From the perusal of the written arguments submitted by the Complainants, we find that they have conveniently distanced from their original story of Surveyor not having visited the spot and are now taking the defense that the Survey report was improper, biased, based on conjecture, vitiated by procedural lapses and unilateral.

10. **From the perusal of the records, we find that the fact that the surveyor visited the spot to carry out the assessment not only was suppressed at the stage of filing the complaint but was also suppressed in the evidence affidavits that were filed after more than 2 years from the date of filing of written statement by the Insurance Co.**

    What bothers us most is the written arguments filed by the Complainants contain a totally different story, without even bothering to inform this Commission the reasons for the change in their stand.

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We are, therefore, of the considered opinion that not only the suppression of facts was deliberate but was also an attempt to mislead this Commission.

11. **As per the doctrine of "*Qui venit in aequitatem, debeat esse purus in minibus", it is a fundamental principle of law that one who comes to equity must come with clean hands.***

A litigant who does not approach the court with clean hands and full disclosure of material facts is not entitled to be heard on merits or granted any equitable relief.

We are dutybound to protect and uphold the legal principles and, therefore, feel it proper to outrightly dismiss the instant Complaint.

Judgment:

1. The Complainant has not come with clean hands and, therefore, the complaint is dismissed.
2. Parties to bear their own costs.
3. Office is directed to:
   i. Provide a certified copy of this order to all the stakeholders.
   ii. Consign the file to records after due compilation.

Announced on 15/10/2026

(Maheep Gupta)
Member, JKSCDRC

(Nighat Sultana)
President (O), JKSCDRC

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