J&K STATE CONSUMER DISPUTES REDRESSAL COMMISSION, SRINAGAR

C.C.: 715 A of 2015, Date of Institution: 05/08/2015

Date of Disposal: 15/10/2026

MOHAMMAD YAHYA KHAN, S/O MOHAMMAD SHAFI KHAN R/O CHOTA BAZAR, KARAN NAGAR, SRINAGAR.

--COMPLAINANT

Versus

1. **NATIONAL INSURANCE CO. LTD., DIVISIONAL MANAGER, N.B. BUILDING, RED CROSS BUILDING, SRINAGAR 190 001.**
2. **JAMKASH VEHICLEADES (KASHMIR) PVT. LTD., HYDERPORA, BYE PASS, SRINAGAR.**

– OPPOSITE PARTIES

Coram:
Smt. Nighat Sultana, President (O)
Sh. Maheep Gupta, Member
Parties represented by:
Sh. UMAR RASHID, Ld. counsel for the Complainant.
Sh. N.A. DENDROO, Ld. Counsel for O.P. 1.
None for O.P. No. 2.

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

1. The brief facts of the case are as under:
   i. Complainant purchased a car (Wagon R Stringray VXI) from O.P. No. 2 on 28/07/2014 which in turn was insured by O.P. 1 vide its policy No. 35101031146135225939 for an I.D.V. of Rs. 4,55,767/- covering the policy period from 28/07/2014 to 27/07/2015.
   ii. During the currency of the Policy, in the first week of September 2014, devastating floods engulfed the valley of Kashmir and the car as referred above got washed away in the floods and could not be traced.

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iii. The claim lodged by the Complainant was repudiated by the Insurance Company vide its letter dated 08/07/2015 on the ground that the vehicle was not registered at the time of loss.

iv. Being aggrieved of the repudiation of his claim, the Complainant had filed the instant Complaint.

2. Before we proceed further, we deem it proper to state here that the case was listed for O.P.s evidence for the first time on 10/04/2019 and before it could be concluded the Commission was winded up in the month of October 2019.

On the revival of this Commission, the case was taken up for resumption in proceedings and was again listed for O.P.'s evidence on 19/10/2023.

However, the O.P. Insurance Company failed to lead any evidence despite availing sufficient opportunities and its right to lead evidence was eventually closed on 05/02/2025 and the parties were directed to file their written arguments.

The O.P. Insurance Company again failed to file its written arguments thus constraining us to take up the matter for adjudication on its merits on the basis of the records and pleadings of the Complainant.

It may also be added here that the Claim file was submitted by the O.P. Insurance Company on 29/08/2024 which has been duly considered by us for arriving at a fair adjudication of the case.

3. We also deem it proper to state here that the facts of the case are almost identical to the facts involved in Case No. 22/2015, 49/2015, 211/2015 & 281/2015 (all disposed through a common order dated 30/06/2015) wherein the vehicles were not registered, however, the only difference in the aforesaid cases was that the vehicles were not completely washed away and were available for inspection/assessment of loss.

A perusal of the aforesaid order would reveal that the objection of the Insurance Company as to non-registration was turned down by this Commission and the Insurance Companies were directed to indemnify the complainants on the basis of the assessment made by the Surveyor.

It is also important to state here that out of the aforesaid four cases, two pertained to the National Insurance Company, the O.P. herein and the

Insurance Company should have been ideally guided by the said judgment and proceeded on its own to settle the case.

Pertinently on 11/10/2017 this fact was again brought to the notice of the O.P. Insurance Company, but the Insurance Company again chose to continue litigating the issue.

4. Heard the Counsel for the Complainant, perused the records and the claim file.
5. We have perused the internal claim note sheet dated 02/07/2015, which is reproduced below:

NOTE SHEET
Claim No.: 3510103156196006053
Policy No.: 3510103116135325939
Insured: Mr. Mohd. Yahya Khan
Note
Intimation for the subject claim was received stating that the vehicle had been washed away during the floods of September 2014, for which Mr. A.R. Untoo was deputed. As per the investigation report, the loss was stated to be genuine and no traceable report was also produced from SSP, Srinagar.
But, while processing the claim, it was observed that the vehicle was sold on 28/07/2014 and was not registered with any RTO till the date of loss, i.e., 06/09/2014, despite a lapse temporary registration of one month period.
As per the insured necessary fee and other documentation to the was submitted to the RTO, but due to the floods, the RC could not be made from RTO end.
The insured was asked to produce the R.C. from the concerned RTO through our letters Nos. 1306, 907 and 602 dated 29/06/2015, 03/06/2015 and 11/05/2015 but nothing has been received till date.
The claim is therefore recommended for closure as "No Claim" due to the non-submission of the required documents.

6. A bare perusal of the aforesaid internal claim note sheet would reveal that there is no dispute that the vehicle was washed away in the floods, occurring during the currency of the insurance policy, and is not traceable thus rendering it to be a case of total loss.

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It is further observed that the note sheet as above also contains a statement by the Complainant/Insured of having submitted the fee and other necessary documents to the Concerned R.T.O.

We also find that a copy of the vehicle inspection report purportedly issued by the Chief Inspector, Board of Inspection, Srinagar which confirms that the vehicle was duly inspected on 30/08/2014 by the R.T.O. officials and we have no reasons to doubt the veracity of the statement made by the Complainant having already initiated the process of registration of vehicle before the date of loss.

7. After a careful consideration of the facts of the case and the records lying in the records, we do not find the ground of non-registration taken by the O.P. Insurance Company for the repudiation to be tenable on the following counts:
   i. The Complainant had already applied for the registration before the date of the loss and cannot be penalized for the delay on the part of the R.T.O.
   ii. Even if it is assumed for the sake of argument that the complainant had failed to approach the R.T.O. for registration of the vehicle within the stipulated time, it cannot be ignored that the vehicle at the material time of loss was parked and was not being plied on a public place/ road and as such no case of contravention of Section 39 of M.V.A. can be made up against the complainant.
   iii. **It is also important to note that the contravention of provisions of any other Act including the Motor Vehicles Act, even if established, does not confer any automatic right to the Insurance Company to repudiate the claim unless and until there is a specific corresponding condition in the Insurance Policy.**

   Pertinently, the Ld. Counsel for O.P. Insurance Company was directed on 19/11/2025 to place on records the complete policy terms and conditions which were never filed by him.
8. **We are, therefore, of a considered opinion that the Insurance Company is not justified in repudiating the claim of the Complainant and is guilty of deficiency in service.**

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9. **O.P. insurance Company is directed to pay Rs.7,85,963/- to the complainant, calculated as under:**

Particulars	**Amount**
I.D.V. of the vehicle	4,27,175/-
Less: Policy Excess	1,000/-
Balance	4,26,175/-
Add: Compensation for delay calculated @ 6% on Rs.4,26,175/- for 4422 days (from date of loss, i.e., 06/09/2014 to date of instant order, i.e., 15/10/2026)	3,09,788/-
Add: Compensation for Mental torture and litigation expenses.	50,000/-
Total	**7,85,963/-**

Judgment:

1. Complaint is allowed and the O.P. Insurance Company is directed to pay Rs.7,85,963/- to the Complainant within 30 days of this order failing which company shall also be liable to pay interest @6% p.a. on the entire amount of Rs.7,85,963/- to be calculated from 16/10/2026 till the final deposition of the award amount.
2. 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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