

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
ERNAKULAM**

Dated this the 30th day of October, 2023

Filed on: 29/10/2021

PRESENT

Shri.D.B.Binu

Shri.V.Ramachandran

Smt.Sreevidhia.T.N

President

Member

Member

C.C No. 403/2021

COMPLAINANT

K.R. Prasad, Puthenpurayil house, Pandapilly P.O, Muvattupuzha , Ernakulam
Dist.- 686672.

(Rep. by Adv. Tom Joseph, Court Road, 686661)

VS

M/s Star Health and Allied Insurance Company Limited, Branch Office-
Kakkanad , Door No. 33/19/D-15, 1st floor, Ammu Arcade, Civil Lane Road,
Padivattom, Ernakulam, Kochi-682024, Represented by its Manager.

(Rep. by Adv. R.S. Kalkura, Harish Gopinath & Najmal Hussain)

FINAL ORDER

D.B.Binu, President

1) A brief statement of facts of this complaint is as stated below:

The complaint was filed under Section 35 of the Consumer Protection Act, 2019. The complainant, a bakery worker, had purchased a COVID-19 insurance policy called "Covid Rakshak" from the opposite party with a sum insured of Rs. 100,000/-. The policy entitled the policyholder to a lump sum benefit equal to 100% of the sum insured if they were diagnosed with COVID-19 and required hospitalization for at least 72 hours.

The complainant was indeed diagnosed with COVID-19 and hospitalized at Nirmala Medical Centre, Muvattupuzha, from 17.01.2021 to 21.01.2021, incurring treatment expenses of Rs. 2,35,273/-. Subsequently, they filed a claim with the insurance company for reimbursement.

However, the insurance company rejected the claim on 13.04.2021, citing the complainant's failure to provide consultation papers, investigation reports, and treatment details related to bronchial asthma. The complainant argued that this reason for repudiation was not valid, as the policy specifically covered COVID-19-related ailments and should not require information about unrelated medical conditions.

Despite approaching the Insurance Ombudsman for resolution, the complainant's application was dismissed, with permission to seek redressal through other forums or courts. Consequently, the complainant sought relief through the commission, requesting the claim amount of Rs. 1,00,000/- along with 12% annual interest from the claim date until realization. They also requested Rs. 10,000/- as compensation for the mental agony, financial hardships, and suffering caused by the unjust rejection of the claim. The complainant asked the Commission to grant these reliefs and cover the cost of the proceedings.

2) Notice

The commission sent a notice to the opposite party, who subsequently appeared and submitted their version.

3) THE VERSION OF THE OPPOSITE PARTY

The complainant filed the complaint with ulterior motives to gain illegal benefits. The facts presented in paragraphs 1 to 6 of the complainant's submission are not entirely accurate. The complainant had taken the Corona Rakshak Policy for a specified period and sum insured, with the terms and conditions clearly provided. The complainant was also informed of the policy's conditions when it was issued.

The opposite party contends that the policy issuance was based on the information provided in the proposal form, and the proposer had declared that all the statements and particulars in the proposal form were true and correct. Any wrongful information provided in the proposal form is considered fraud.

The opposite party asserts that the complainant had a history of Bronchial Asthma, Hypertension, and other conditions before the policy inception, which were not disclosed in the proposal form.

The opposite party stated that the insurance company had the right to request the necessary documents to process the claim, and the complainant's refusal to provide these documents led to the claim's rejection. The opposite party submitted that the complainant's medical records indicated stable vitals and the hospitalization was for observation and monitoring rather than treatment.

The opposite party disputes the complainant's claims regarding the Insurance Ombudsman's decision and the alleged permission to file a fresh application.

They deny any deficiency in service or unfair trade practices and assert that they acted in accordance with the policy's terms and conditions. The opposite party claims that the complainant's actions are vexatious and intended to harass them. In conclusion, the opposite party asks the Commission to dismiss the complainant's petition and considers awarding costs and compensation to the opposite party for the complainant's alleged vexatious actions.

4) . Evidence

The complainant had filed a proof affidavit and 6 documents that were marked as Exhibits-A-1 to A-6.

Exhibit-A-1: A Copy of the policy document.

Exhibit-A-2: Copy of the discharge summary issued from Nirmal Medical Centre.

Exhibit-A-3: Copy of the discharge bill

Exhibit-A-4: Copy of the repudiation letter dated 13.04.2021.

Exhibit-A-5: A copy of the clarification letter given to the opposite party

Exhibit-A-6: Copy of the award of the Insurance ombudsman.

The opposite party had filed a proof affidavit and 7 documents that were marked as Exhibits-B1 to B-7.

Exbt. B1: Copy of Policy schedule and conditions

Exbt. B2: Copy of discharge summary dated 21.1.2021

Exbt. B3. Copy of Hospital Records

Exbt. B4. Copy of query letter dated 12.3.2021

Exbt. B5. Copy of reply letter dated 20.3.2021

Exbt. B6. Copy of repudiation letter dated 13.4.2021

Exbt. B7. Copy of ombudsman award dated 1.10.2021.

5) The main points to be analyzed in this case are as follows:

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?
- iii) If so, whether the complainant is entitled to get any relief from the side of the opposite party?
- iv) Costs of the proceedings if any?

6) The issues mentioned above are considered together and are answered as follows:

In the present case in hand, as per Section 2(7) of the Consumer Protection Act, 2019, a consumer is a person who buys any goods or hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. A copy of the policy document (**Exhibits A-1**). Hence, the complainant is a consumer as defined under the Consumer Protection Act, 2019.

The complainant approached the commission seeking a claim amount of Rs. 1,00,000 with an interest from the date of the claim until its settlement. They also demanded Rs. 10,000 as compensation for the emotional distress and financial difficulties caused by the unfair denial of their claim. They asked the Commission to cover the legal costs. The complaint arose due to the rejection of the Corona Rakshak policy claim, citing the absence of treatment details for bronchial asthma provided by the complainant.

During the hearing, the counsel representing the complainant argued that the complainant could not provide treatment records for bronchial asthma because they had never undergone any prior treatment for this ailment.

The complaint pertains to the rejection of the Corona Rakshak policy claim on the grounds that the complainant did not provide treatment details related to bronchial asthma. **Exhibits A1 to A6** were submitted by the complainant, while **exhibits B1 to B7** were provided by the opposite party. The complainant's specific argument is that they were unable to furnish treatment

records for bronchial asthma because they had not received any prior treatment for this condition. Consequently, they do not possess any such treatment records. It is important to highlight that the Covid Rakshak policy was specifically designed to aid individuals suffering from COVID-19, a fact supported by **Exhibit A2**, which confirms the complainant's COVID-19 diagnosis. Upon reviewing Section 1 on the first page of the policy wording in **Exhibit B1**, it becomes evident that the policy's sole purpose is to provide coverage for COVID-19. This assertion is further reinforced by the operative clause on the second page of **Exhibit B1**. Given these circumstances, the complainant requests that their complaint be upheld.

On the contrary, the counsel representing for the opposite party, claims that the complaint was made with ill intentions to achieve illegal gains. He challenges the authenticity of the facts in the initial 6 paragraphs of the complainant's submission. The complainant had availed the "**Corona Rakshak Policy**," and its terms and conditions were conveyed at the outset.

The policy was granted based on the details in the proposal form, and any misinformation is treated as fraud. The opposite party alleges that the complainant concealed pre-existing medical conditions like Bronchial Asthma and Hypertension. The complainant's reluctance to submit the required documents for the claim was the reason for the claim's denial. Moreover, the opposite party interprets the medical reports to suggest that the complainant was hospitalized for observation, not treatment.

They staunchly deny any lapses in their service and claim that they acted according to the policy's stipulations. They perceive the complainant's steps as bothersome and intended to cause them distress. As a result, the opposite party demands that the Commission discard the complainant's plea and think about granting them compensation for the alleged trouble caused by the complainant.

After a thorough examination of the evidence and arguments presented by both parties, several crucial factors were considered:

Upon perusal of **Exhibit A-1** (policy document) and **Exhibit B1** (Policy schedule and conditions), it is evident that the policy's primary intent is to cover COVID-19-related hospitalizations. The complainant's hospitalization due to COVID-19 is corroborated by Exhibit A-2 (discharge summary). The rejection of the claim, as depicted in **Exhibit A-4** (repudiation letter), on the grounds of non-disclosure of unrelated medical conditions, appears inconsistent with the policy's primary objective.

The "Corona Rakshak Policy" was intended to provide coverage exclusively for COVID-19-related ailments, as confirmed by **Exhibit A2** and the policy wording in **Exhibit B1**.

The primary basis for the claim denial was the complainant's alleged failure to provide bronchial asthma-related treatment records. However, the complainant convincingly argued that this was irrelevant since the policy explicitly covered COVID-19, and they had not undergone treatment for bronchial asthma.

The opposite party contended that the complainant had concealed pre-existing medical conditions. Still, there was no concrete evidence to support this claim, and the complainant's argument that they had not undergone prior treatment for bronchial asthma was plausible.

The opposite party argued that the complainant's hospitalization was primarily for observation and monitoring, not treatment. However, this does not negate the fact that the complainant had contracted COVID-19 and was entitled to coverage as per the policy terms.

The opposite party claims that the complainant hid pre-existing medical conditions, specifically Bronchial Asthma and Hypertension. The main reason cited for denying the claim was the complainant's hesitancy to provide the necessary documentation. Condition No: 8.4 of the policy, which mandates the "submission of initial consultation papers, investigation reports, and details of treatments related to Bronchial Asthma", was reportedly breached. According to

this condition, the insured is required to "provide the company with additional information and support as needed for the claim." The complainant allegedly failed to provide the requested details in a letter dated 27.03.2021, thereby violating Condition No: 8.4. As a result, the claim has been denied.

Furthermore, the discharge summary from Nirmal Medical Centre (Exhibit-A-2) contains the following statement: "**Treatment Given: AS PATIENT HAD HISTORY SUGGESTIVE OF BRONCHIAL ASTHMA HE WAS CLOSELY MONITORED AND MANAGED SYMPTOMATICALLY.**" It is crucial to note that the patient's BRONCHIAL ASTHMA condition is only indicated and not definitively diagnosed. The patient might not have been fully aware of this condition. Therefore, the rejection of the claim can be seen as an Unfair Trade Practice on the opposite party.

The Honourable Supreme Court in the case of **Manmohan Nanda vs United India Insurance Co. Ltd.** on 6 December 2021, CIVIL APPEAL NO.8386/2015, held that:

"The object of seeking a Mediclaim policy is to seek indemnification in respect of a sudden illness or sickness which is not expected or imminent and which may occur overseas. If the insured suffers a sudden sickness or ailment which is not expressly excluded under the policy, a duty is cast on the insurer to indemnify the appellant for the expenses incurred thereunder.

In another ruling by the Honourable Supreme Court of India, under the Civil Appellate Jurisdiction, presided over by Justices M.R. Shah and B.V. Nagarathna, in the case of **Gurmel Singh V. Branch Manager, National Insurance Co. Ltd.** (Civil Appeal No. 4071 of 2022 dated May 20, 2022), it was observed,

"In numerous instances, insurance companies have been noted to reject claims on insubstantial or technical bases. When addressing claims, insurers shouldn't overly rely on technicalities, especially when demanding documents that claimants cannot furnish due to unavoidable circumstances."

The 'Corona Rakshak Policy' was crafted with heartfelt intent to offer solace and support to those battling the harrowing effects of COVID-19. The insurance company's denial, after perusing the documents, feels like a betrayal of the principles of compassion and fairness. Such a cold and narrow-minded approach, rooted in technicalities, is deeply hurtful, especially during a time when the entire world was grappling with the shock of the pandemic. It's heart-wrenching to see some of the insurance firms repeatedly dismiss claims on insubstantial grounds or mere technicalities. Their focus should be on empathy rather than loopholes. Imagine the despair of a man, shaken by the devastating impact of COVID-19, who sought refuge in the security of a policy, only to be turned away. Think of the countless souls who, while mourning the loss of loved ones or battling the virus themselves, reached out to insurance companies for help, only to be given a myriad of reasons for denial. Such actions are not just unfair; they are profoundly inhumane.

The commission finds that there has been a deficiency in service and unfair trade practice on the part of the opposite party. The insurance policy "Covid Rakshak" was specifically designed to provide coverage for COVID-19, which is established through **Exhibit A-1**. The complainant had fulfilled the conditions laid down in the policy by being hospitalized for more than 72 hours due to COVID-19, as substantiated by **Exhibit A-2**. The opposite party's insistence on obtaining unrelated medical records of bronchial asthma, which is unrelated to the claim, is unjustified and amounts to an unfair trade practice and a deficiency in service.

We find the issue Nos. (II) to (IV) are also in favour of the complainant for the serious deficiency in service that happened on the side of the opposite party. Naturally, the complainant had suffered a lot of inconvenience, mental agony, hardships, financial loss, etc. due to the negligence on the part of the opposite party.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite party is liable to compensate the complainant. Hence the prayer is partly allowed as follows:

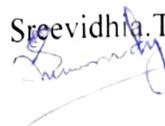
- I. The opposite party shall pay the claim amount of Rs. 1,00,000/- to the complainant.
- II. The opposite party shall pay Rs. 10,000/- as compensation to the complainant for mental agony, financial hardships, and suffering caused by the unjust rejection of the claim.
- III. The Opposite Party shall also pay the complainant Rs. 10, 000/- towards the cost of the proceedings.

The Opposite Party is liable for the above-mentioned directions which shall be complied with by the Opposite Party within 30 days from the date of the receipt of a copy of this order. Failing which the amount ordered vide (i) and (ii) above shall attract interest @9% from the date of the claim till the date of realization.

Pronounced in the Open Commission on this the 30th October, 2023.


D.B. Binu, President

V. Ramachandran, Member


Sreevidhya T.N., Member

Complainant's evidence

Exhibit-A-1: A Copy of the policy document.

Appendix

Exhibit-A-2: Copy of the discharge summary issued from Nirmal Medical Centre.

Exhibit-A-3: Copy of the discharge bill

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Exhibit-A-5: A copy of the clarification letter given to the respondent

Exhibit-A-6: Copy of the award of the Insurance ombudsman.

Opposite party's evidence

Exbt. B1: Copy of Policy schedule and conditions

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