

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL  
COMMISSION**

**Date of Institution: 17.04.2014**

**Date of Hearing: 19.09.2022**

**Date of Decision: 09.01.2023**

**FIRST APPEAL NO.- 373/2014**

**IN THE MATTER OF**

**BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD.,  
7<sup>TH</sup> FLOOR, BLOCK NO. 4, DLF TOWER 15,  
SHIVAJI MARG, NEW DELHI-110015.**

**(Through: M/s Suman Bagga & Associates)**

...Appellant

**VERSUS**

- 1. MS. SUMAN RANA,  
S/O MR. SANJEEV MATHUR,  
D/O MR. KRISHAN KUMAR RANA,  
R/O H. NO. 287, VILLAGE & P.O. SIRASPUR,  
DELHI-110042.**

**(Through: Mr. R.S. Mahendra & Manish Sharma, Advocates)**

- 2. MALWA AUTO SALES (P) LTD.,  
N.H. -1, 31 K.M. STONE,  
G.T. ROAD, KUNDLI, SONIPAT, HARYANA.**

**(Through: Mr. Manish Verma, Advocate)**

...Respondent

**CORAM:****HON'BLE JUSTICE SANGITA DHINGRA SEHGAL  
(PRESIDENT)****HON'BLE MS. PINKI, MEMBER (JUDICIAL)**

Present: Mr. Virender Prabhakar, Counsel for the Appellant.  
Mr. Manish Sharma, Counsel for Respondent no. 1.  
Mr. Tarun Sharma, proxy counsel for Mr. Manish Verma,  
counsel for the Respondent no. 2.

**PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL,  
PRESIDENT****JUDGMENT**

1. The facts of the case as per the District Commission record are:

*“A Santro car was purchased by her father for the purpose of gifting her at the time of marriage which was fixed for 27.11.09. It was purchased from Respondent No.2 at Kundli Sonipat. Hence, it was issued a temporary registration number by Respondent No.2, which was HR99-el-9447. The vehicle was insured by Bajaj Alliance Insurance Company vide cover note BZ0802764367 effective for the period 26.11.09 to 25.11.10. Complainant paid Rs. 11,000/- to Respondent No.2 for obtaining permanent registration number of the vehicle from the transport authority concerned. Thereafter her father telephonically requested Respondent No.2 to send the RC and other documents of the vehicle. He personally also visited Respondent No.2 several times for getting the documents of the vehicle including RC but it was postponed by Respondent No.2 on one ground or the other. AT one stage she was even told that they have obtained the documents but the same was misplaced in some other file.*

*On 11.3.10 the vehicle was stolen from outside P.M. Institute, Sector 7, Rohini, where her husband had parked it. Immediately PCR was informed and D.D. No. 17A was recorded at police station, Rohini North. FIR No. 68 dated 16.3.10 was recorded under section 379 IPC. Complainant informed the office of the respondent No.1 on 7.4.10 about the theft of the vehicle and She personally visited the office of the respondent and explained the facts. Thereafter she received another letter dated 2.11.10 from Respondent No.1 wherein it was stated that the complainant had violated the rules and regulations of the Motor Vehicle Act Section 39, then she received another letter dated 19.11.10 wherein it was also stated that complainant failed to give notice in writing immediately upon the occurrence of any accident or loss or damage etc. It was also mentioned that vehicle was left unattended and was not registered and considering the documents her claim was repudiated. She submitted that at the time of purchasing the vehicle, she paid Rs. 11,000/-to Respondent No.1. Respondent No.2 got the vehicle insured from Respondent No.1. Her father contacted Respondent No.2 several times for obtaining the necessary documents. Whatever was expected of her was done by her. Her claim was illegally repudiated.”*

2. The District Commission after taking into consideration the material available on record passed the order dated **24.01.2014**, whereby it held as under:

*“We have perused the documents filed by her and a bill issued by Respondent No.2 proves that RS.700/- was paid for temporary*

*registration number, which was valid for a period of one month w.e.f. 26.11.09 to 25.12.09 only and RS.11,000/- was paid as registration charges to Respondent No.2 Hence, it was duty of Respondent No.2 to get the vehicle registered and hand over the RC to the complainant. Her father had been making inquiries from Respondent No.2 and he was told that the documents had been received by Respondent No.2 but the same were kept inadvertently in some other file. The complainant could not presume that the vehicle was not got registered by Respondent No.2 and hence he was plying the vehicle on the road with temporary registration number only. Though the temporary registration number was valid for one month only but as complainant was not provided new registration number by Respondent No.2, he kept on plying the vehicle. Its not a case where the vehicle was being plied on the road without any registration certificate, there was no negligency on the part of the complainant in taking proper care of the vehicle. Respondent No.1 took the objection that proper care and attention of the vehicle was not taken by the complainant but this objection was not substantiated by any further evidence. Another important objection raised by the respondent was that no intimation of the commission of theft was given to it for a period of 26 days which deprived the respondent of its valuable right to get the matter investigated and trace the vehicle and it was submitted that it was violation of condition No. 1 of the policy. In support of all its contentions respondent has relied upon various judgments. Reliance was placed on judgment of National Consumer Dispute Redressal Commission Circuit Bench at Bhopal in the case of*

*Akaushalendra Kumar Mishra Vs Oriental Insurance Company 1(2012)CPJ559(NC). In this case the claim was repudiated on the ground of no registration of the vehicle. In this case it was held that till the vehicle receives certificate of registration from the competent authority, it is not legally useable on roads. In that case the complainant had not applied for registration certificate because he wanted a VIP number for his vehicle. The facts of this case are different from the case in hand and judgment can be distinguished on facts. In the present case the complainant paid registration fee twice. Once he paid Rs.700/- for temporary registration number and again he paid Rs.11,000/-to Respondent No.2 for registration of the vehicle. In case of new vehicle it is obligatory on the dealer at the time of selling the vehicle to obtain the registration number before delivery. Respondent No.2 in this case provided temporary registration number to the complainant. So he was competent to ply the vehicle on the road. Subsequently also he was told that documents have been received from the department but have been misplaced. So he was not at fault as the complainant was in the case before the National Commission. In the case cited supra wherein he had not even paid the registration fee. Hence, the judgment relied upon by the respondent is not applicable to the facts of the present case.*

*It is an admitted fact that insurance company was informed after 26 days of the theft about this incident and OP argued that this delay was fatal to the case of the complainant because as per condition No.I of the policy the insured shall immediately give notice in writing to the insurer. Reliance was placed on judgment*

*of National Consumer Dispute Redressal Commission in the case of Om Prakash Vs National Insurance Company III(2012)CPJ59(NC) wherein it was held that terms and conditions of the insurance policy are required to be strictly construed and no exception can be made on ground of equity. Even delay of few days in not intimating insurance company about incident of theft is fatal. Insured loses its right to the indemnify when he himself is not vigilant about his rights and his obligations in regard to compliance of terms and conditions of the policy. We fully agree with this judgment relied upon by the Ld. Council but a precondition for compliance of terms and conditions of the policy is that those terms and conditions are supplied to the insured. The respondent in its preliminary objections submitted that policy cover note was issued subject to standard terms and conditions of the policy but nowhere it is there case that those standard terms and conditions of the policy were delivered to the complainant at any stage because he was only issued a cover note at the time of getting the vehicle insured. No terms and conditions of the policy were ever delivered to him and on the cover note itself there was no such condition that in the case of theft of the vehicle, he was supposed to inform the insurance company immediately in writing about the theft of his vehicle. Hence, we hold that the judgment relied upon by the respondent is of no help to it.*

*Complainant relied upon two judgments of Supreme Court of India in the case of National Insurance Company vs Nitin Khandelwal IV (2008)CPJI\SC) wherein it was held that the breach of policy*

*condition is not germane in the case of theft the vehicle and claim cannot be repudiated in toto. Claim can be settled on nonstandard basis.. Complainant also relied upon the judgment of National Consumer Dispute Redressal Commission in the case of Oriental Insurance Company VS Parvesh Chander Chadha IV(2008)CPJ211(NC). Hence, considering entire facts and circumstances we hereby order that Respondent No.1 shall settle the claim on nonstandard basis paying 75% of the -DV of the vehicle alongwith interest @6%P.A. from the date of filing of the complaint till realization. Under the circumstances no compensation is granted against Respondent No.1.*

*Respondent No.2 which has not contested the claim was at fault in not providing the RC to the complainant within reasonable time which caused hardship and inconvenience to the complainant. Hence, we hereby order that Respondent No.2 shall refund the registration fee of Rs. 11,000/- charged from the complainant and shall further pay compensation of Rs.20,000/- to the complainant.”*

3. Aggrieved by the aforesaid judgment of the District Commission, the Appellant/Opposite Party no. 1 has preferred the present Appeal contending that the District Commission has erred in establishing the deficiency on part of Appellant/Opposite Party no. 1 as the Appellant had rightly repudiated the claim of Respondent on account of violation of terms and conditions of the policy. Pressing the aforesaid contention, the Appellant prayed for setting aside the impugned judgment passed by the District Commission.

4. The Respondent no. 1, on the other hand, denied all the allegations of the Appellant and submitted that there is no error in the impugned judgment as the entire material available on record was properly scrutinized before passing the said judgment.
5. We have perused the material available on record and heard the counsel for both the parties.
6. The *main question* for consideration before us is *whether the Appellant is liable to settle the claim of the Respondent no. 1 on account of delay in intimating the police authorities as well as the Appellant insurance Company.*
7. To answer this question, we deem it appropriate to refer to the *Revision petition no. 1261 of 2016* titled as “*Beena Acharya vs. Manager, Oriental Insurance Co. Ltd.*” decided on *23.08.2021*, wherein in a similar case, the Hon’ble National Commission held as follows:

*“6. I have carefully considered the arguments advanced by the Learned Counsel for both the Parties and have examined the record. In a recent case, Larger Bench of the Hon'ble Supreme Court in Gurshinder Singh vs. Shriram General Insurance Co. Ltd., and Anr., (Supra) observed that delayed intimation to the Insurance Company would not forfeit the total insurance claim if FIR had been lodged immediately within a reasonable time and all other conditions are met. The claim of the insured can be considered, even if the intimation to the Insurance Company had been given with delay, provided information to the Police is given within a reasonable time. In the present case the FIR was lodged after 12 days. There was a delay in giving intimation to the Police, even though the Learned Counsel for the Petitioner stated that the information was given to the Police on 3 August itself, but the Police did not lodge the FIR. No evidence, however, has been filed in this regard nor the same been pleaded in the Complaint. In these circumstances, I find that one of the*



important conditions of the Policy has been grossly violated. The Hon'ble Supreme Court observed in Amalendu Sahoo Vs. Oriental Insurance Company Limited, MANU/SC/0192/2010 : (2010) 4 SCC 536, that if any condition of the Policy has been violated then the claim may be settled on non-standard basis up to 75% of the otherwise admissible claim. In the present case, neither the Police was intimated immediately nor information given to the Insurance Company within a reasonable time. The Police, however, filed a final report in the matter after investigation and it was found that culprits could not be apprehended. This lays support to the occurrence of theft of the vehicle, in the absence of any other claim by the Insurance Company. In the circumstances, I deem it appropriate to allow the insurance claim at 70% of the IDV of the vehicle."

8. From the aforesaid dicta, it is clear that if in case, the condition of the policy is violated by the insured, the claim may be settled on non-standard basis. Returning to the facts of the present case, we find that the Respondent no. 1/Complainant has placed on record the DD no. 17A dated 11.03.2010 of the concerned police control room, where the information about the theft was given immediately through phone call. According to the written report of the concerned police control room, the information was received by the official on 11.03.2010 at 01:00 p.m. about the incident of theft which was occurred on the same day. However, the FIR was filed in the concerned police station on 16.03.2010 by the Respondent no.1. Therefore, it is clear that the delay in intimation to the Appellant insurance company does not justify the repudiation of the claim as the Respondent no. 1 has duly intimated the police authorities about the incident of theft through phone call. Also, the untraced report has been prepared by the police officials for the said vehicle. As a result, the Appellant cannot

escape from the liability of settling the claim as ordered by the District Commission.

9. Infact, we do not find any reasons to reverse the findings of the District Commission. Consequently, *we uphold the order dated 24.01.2014, passed by the District Consumer Disputes Redressal Commission II, Janakpuri, New Delhi – 110058. Consequently, the present Appeal stands dismissed with no order as to costs.*
10. Application(s) pending, if any, stand disposed of in terms of the aforesaid Judgment.
11. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
12. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)  
PRESIDENT**

**(PINKI)  
MEMBER (JUDICIAL)**

Pronounced On:  
**09.01.2023**