

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, LUDHIANA.

Complaint No:81 dated 26.02.2020.
 decision: 25.08.2023.

Date of

Rajkaran Singh aged 27 years son of Sh. Gurdev Singh, resident of village Kalakh Kalan Ghungrana, Tehsil Jagraon, District Ludhiana.

Complainant

Versus

1. Aditya Birla Health Insurance Co. Limited, having its registered office R-Tech Park, 10th Floor, Narion Compound, Off Western Express Highway, Goregaon (East), Mumbai through its Managing Director/Director/Chief Executive Officer/Authorized representative.
2. Aditya Birla Health Insurance Co. Limited, having one of its office at 7th Floor, SCO 16 & 17, Feroze Gandhi Market, Fortune Chambers, Ludhiana through its Branch Manager.

.....Opposite parties

Complaint Under section 12 of the Consumer Protection Act.

QUORUM:

SH. SANJEEV BATRA, PRESIDENT

MS. MONIKA BHAGAT, MEMBER

COUNSEL FOR THE PARTIES:

For complainant : Sh. Ripan Chadha, Advocate.

For Ops : Sh. Ashok Kumar, Advocate.

ORDER

PER SANJEEV BATRA, PRESIDENT

1. Shorn of unnecessary details, the facts of the case are that on the assurance and representations of representatives of the opposite parties, the complainant purchased medi-claim policy bearing No.13-18-0019630-01-00 for himself with a sum assured of Rs.3,00,000/- by paying premium of Rs.3777/- having validity from 31.07.2019 to 30.07.2020. The complainant stated that during subsistence of the policy, he was admitted in Sood Hospital, Near Gandhi School, Ahmedgarh (Sangrur) on 22.09.2019 and was diagnosed with fever and thrombocytopenia, Dengue, Serology +ve and post viral Pneumonia etc. According to the complainant, no claim was made by him. The said policy was renewal of policy from 27.05.2014 to 26.05.2015 by paying premium of Rs.34,997/- vide policy No.30220670201401, which was renewed vide policy No.30220670201502 from 27.05.2015 to 26.05.2016 on premium of Rs.34,250/- for a sum insured of Rs.3,00,000/-. As per the policies all hospitalization expenses, all day care procedures, pre and post hospitalization expenses etc. were covered.

The complainant further stated that he was treated at Sood Hospital, Ahmedgarh by giving various medicines and was discharged on 30.09.2019. He spent Rs.69,915/- and lodged hospitalization claim

No.1121910019267 including pre and post hospitalization charges but his claim was wrongly rejected letter dated 20.11.2019 vide letter dated 30.09.2015 stating that there are discrepancies and lapses noted in the event of hospitalization, as per patient's statement he used to go at home as such, they are unable to approve the claim. According to the complainant, his claim was rejected on flimsy grounds and without any truth in letter dated 20.11.2019. The complainant had not disclosed regarding the diabetes and hypertension. The opposite parties have wrongly disallowed his claim of Rs.69,915/-. The complainant further stated that he has not concealed any facts from the opposite parties nor he violated any term and condition of the policy. As per hospital record, the complainant remained admitted in the hospital till his discharge and his condition was monitored from time to time during his admission and under medical supervision of the doctors of hospital. The complainant left the hospital during his admission. The complainant further stated that the repudiation of his claim is illegal, null and void and amounts to unfair trade practice and deficiency in service on the part of the opposite parties for which the complainant is entitled to compensation from the opposite parties. In the end, the complainant has prayed for issuing direction to the opposite parties to pay the claim of Rs.69,915/- along with interest and also to pay compensation of Rs.1,00,000/- and litigation expenses of Rs.33,000/-.

2. Upon notice, the opposite parties appeared and filed joint written statement and by taking preliminary submissions/objections, assailed the complaint on the ground of maintainability of the complaint, the complainant has not come to the Commission with clean hands; concealment of material facts; lack of jurisdiction etc. The opposite parties stated that the complainant purchased Acity Assure-Diamond Plan policy No.13-18-0019630-00 and as per the terms and conditions of the policy "*if any claim is found to be fraudulent, or if any false declaration is made, or if any fraudulent devices are used by You or the Insured Person or anyone acting on their behalf to obtain any Benefit under this policy then this policy shall be void and all claims being processed shall be forfeited for all Insured Persons. All sums paid under this policy shall be repaid to us by you on behalf of all Insured Persons who shall be jointly liable for such repayment.*" The opposite parties further stated that in the present case, they arrived to the reason that the claim filed by the complainant is a fraudulent claim and there were discrepancies found during the course of investigation and as such, the claim of the complainant was rightfully repudiated in accordance with terms and conditions of the policy. According to the opposite parties, the complainant after fully reading and understanding the terms and conditions of the insurance policy, purchased the insurance policy. Even as per the policy document sent to the complainant, it was mentioned that in case the complainant has any objection with the terms and conditions of the policy, he can cancel the policy within 15 days of the receipt of the policy document stating the reason for cancellation. The complainant never approached them with request to cancel the policy during the free look period. The opposite parties further stated that the contract of insurance is the contract of Ubermaie Fide for both the parties and there must be complete good faith on the part of the assured and as such, assuredis under a solemn obligation to make full disclosure of material facts which may be relevant for the insurer to take into account while deciding whether the proposal should be accepted or not. It is the duty of the proposer to disclose the true facts. The complainant has concealed the material facts and as such, his claim was repudiated in accordance with terms and conditions of the policy finding the same to be fraudulent claim.

Under the column of facts of the case, the opposite parties stated that the complainant availed insurance policy No.13-18-0019630-00 from 31.07.2019 to 30.07.2019 on the basis of duly signed proposal from, which is reproduced as under:-

Policy Holder	Mr. Rajkaran Singh
Policy Number	13-18-0019630-00
Name of Insured person	Mr. Rajkaran Singh
Policy Enforcement Date	31.07.2018
Policy Type	Individual
Product Name	Activ Assure- Diamond
Expiry Date of Policy	30.07.2019.

According to the opposite parties, in case the policy holder is not satisfied with the features or the terms and conditions of the policy and he can withdraw/return the policy within 15 days of the receipt of policy under "Free Look" option. The complainant on receipt of policy documents, did not approach the opposite parties to opt the option of "Free Look" option. On 30.10.2019, the opposite parties received a claim from the complainant along with medical bills for reimbursement of insurance claim of Rs.69,915/- and on scrutiny of the documents and medical record, the opposite parties found that there were certain discrepancy in the provided documents, which is reproduced as under:-

- a. *As per the facts submitted the insured patient was admitted to Sood Hospital and patient was suffering from fever since 20.09.2019 for which he took medicine at home as his mother is a staff nurse in Sood Hospital, after that he got admitted in same hospital on 22.09.2019 but during that time he used to go home for 2-3 hours during hospitalization for some rest from 28.09.2019 to 30.09.2019 on daily basis.*
- b. *As per ICP, date of admission has been changed from 24.09.2019 to 22.09.2019 and same scribbling has been noted in other pages of ICP also.*
- c. *As per ICP, patient diagnosed with Dengue also but dengue report provided is dated 22.09.2019 which was done outside the hospital and no dengue serology done during hospitalization from 22.09.2019 to 30.09.2019.*
- d. *Also as evident from insured statement, he did not take treatment on regular basis from hospital as indoor patient and scribbling also noted in ICP over date of admission as described in above observations.*

The opposite parties stated that as per the terms and conditions of the policy, the claim of the complainant was repudiated and was informed about the decision vide repudiation letter dated 20.11.2019. As per the insurance policy, the claim is paid by any Insurance company is out of the common pool of funds belonging to all policy holders of the company and the insurance company has to check the genuineness of a claim before honoring it and as such, the claim of the complainant was rightly repudiated.

On merits, the opposite parties reiterated the crux of averments made in the preliminary objections. The opposite parties have denied that there is any deficiency of service and have also prayed for dismissal of the complaint.

3. In support of his claim, the complainant tendered his affidavit Ex. CA in which he reiterated the allegations and the claim of compensation as stated in the complaint. The complainant also tendered documents Ex. C1 is the copy of insurance policy from 31.07.2019 to 30.07.2020, Ex. C2 is the copy of premium certificate, Ex. C3 is the copy of discharge summary of Sood Hospital, Ex. C4 is the copy of repudiation letter dated 20.11.2019 and closed the evidence.

4. On the other hand, counsel for the opposite parties tendered affidavit Ex. RA of Sh. Vikram Jain, working as AVP-Legal and Compliance of the opposite parties along with documents Ex. R1 is the copy of welcome letter and policy documents, Ex. R2 is the copy of in patient record of Sood Hospital, Ex. R3 is the copy of questionnaire of Rajkaran Singh, Ex. R4 is the copy of repudiation letter dated 20.11.2019 and closed the evidence.

5. We have heard the arguments of the counsel for the parties and also gone through the complaint, affidavit and annexed documents and written reply along with affidavit and documents produced on record by both the parties.

6. On 22.09.2019, the complainant in the second continuous year of the policy, was hospitalized in Sood Hospital, Ahmedgarh and was discharged on 30.09.2019. He was diagnosed of fever and thrombocytopenia, Dengue, Serology +ve and post viral Pneumonia etc. and an amount of Rs.69,915/- was incurred as medical expenses. On 30.10.2019, the complainant lodged a claim which was repudiated by the opposite parties on 20.11.2019 vide letter Ex. C4 = Ex. R4, the operative part of which reads as under:-

"On scrutiny of the documents, it has been observed that on scrutiny of the documents it has been observed that claimant has lodged claim for dengue fever, as per provided documents reveals

there are discrepancies and lapses noted in the event of hospitalization, as per patients statement he use to go at home to and hence we are unable to approve the claim.

Please read the policy document with reference to the above and refer to the clause mentioned below:

1. If any claim is found to be fraudulent, or if any false declaration is made, or if any fraudulent devices are used by You or the Insured Person or anyone acting on their behalf to obtain any Benefit under this policy then this policy shall be void and all claims being processed shall be forfeited for all Insured Persons. All sums paid under this policy shall be repaid to us by you on behalf of all Insured Persons who shall be jointly liable for such repayment.”

The opposite parties have also placed on record the complete discharge summary as Ex. R2 and tried to pick holes in the discharge summary in order to deny the claim of the complainant. The opposite parties have relied upon the statement of the complainant himself according to which, the complainant has stated that he was suffering from fever since 20.09.2019 for which he took medicine at home from his mother, a staff nurse in the Sood Hospital and later on, on 22.09.2019 he was hospitalized and used to go home for 2-3 hours during the hospitalization from 28.09.2019 to 30.09.2019 on daily basis. Further the opposite parties have referred to some overwriting in the dates and suspected hospitalization to be fake and resultantly, invoked the clause 5 of the policy terms and conditions. The discharge summary contains the treatment record in chronicle order by the treating doctors and there is nothing to suggest that the complainant was not hospitalized or he did not suffer the ailment which has been diagnosed by the doctors. It is not the case of the opposite parties that the diagnosed ailment does fall within the purview of this exclusion clause No.5 for which the expenses on the treatment is not admissible. Even if assuming the fact that the complainant was allowed to visit his home for 2-3 hours of the last three days of his hospitalization even then the opposite parties were not justified in invoking clause 5 of the terms and conditions of the policy and the repudiating the claim of the complainant. The claim of the complainant with regard to his ailment is genuine and not false or fraudulent. As such, in the given circumstances, it will be just and appropriate of the opposite parties are directed to settle and reimburse the claim of the complainant strictly in accordance with terms and conditions of the policy.

7. As a result of above discussion, the complaint is partly allowed with direction to the opposite parties to settle and reimburse the claim of the complainant strictly in accordance with terms and conditions of the policy within 30 days from the date of receipt of copy of order failing which the complainant shall be held entitled to interest @8% per annum on the settled amount from the date of order till its actual payment. The opposite parties shall also pay a composite costs of Rs.10,000/- (Rupees Ten Thousand only) to the complainant within 30 days from the date of receipt of copy of order. Copies of order be supplied to parties free of costs as per rules. File be indexed and consigned to record room.

8. Due to huge pendency of cases, the complaint could not be decided within statutory period.

(Monika Bhagat)

(Sanjeev Batra)

Member

President

Announced in Open Commission.

Dated:25.08.2023.

Gobind Ram.

Raj Kumar Vs Aditya Birla Health

CC/20/81

Present: Sh. Ripan Chadha, Advocate for the complainant.

Sh. Ashok Kumar, Advocate for OPs.

Arguments heard. Vide separate detailed order of today, the complaint is partly allowed with direction to the opposite parties to settle and reimburse the claim of the complainant strictly in accordance with terms and conditions of the policy within 30 days from the date of receipt of copy of order failing which the complainant shall be held entitled to interest @8% per annum on the settled amount from the date of order till its actual payment. The opposite parties shall also pay a composite costs of Rs.10,000/- (Rupees Ten Thousand only) to the complainant within 30 days from the date of receipt of copy of order. Copies of order be supplied to parties free of costs as per rules. File be indexed and consigned to record room.

(Monika Bhagat)

(Sanjeev Batra)

Member

President

Announced in Open Commission.

Dated:25.08.2023.

Gobind Ram.