

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 72 OF 2023

(Against the Order dated 02/09/2022 in Appeal No. 1/2017 of the State Commission
Pondicherry)

1. ROYAL SUNDARAM GENERAL INSURANCE
COMPANY LIMITED (FORMERLY KNOWN AS ROYAL
SUNDARAM ALLIANCE INSURANCE COMPANY
LIMITED)

.....Petitioner(s)

Versus

1. LATHA

.....Respondent(s)

REVISION PETITION NO. 73 OF 2023

(Against the Order dated 12/08/2022 in Appeal No. 16/2017 of the State Commission
Pondicherry)

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.....Respondent(s)

BEFORE:

**HON'BLE MR. JUSTICE SUDIP AHLUWALIA, PRESIDING MEMBER
HON'BLE DR. INDER JIT SINGH, MEMBER**

FOR THE PETITIONER : MS. DEEPA CHACKO, ADVOCATE.

Dated : 06 July 2023

ORDER

JUSTICE SUDIP AHLUWALIA, MEMBER

The Revision Petition bearing Nos. 72 of 2023 has been filed by the Petitioner/ Opposite Party against the Respondent/ Complainant challenging the impugned Order dated 02.09.2022 passed by the State Consumer Disputes Redressal Commission, Puducherry, in First Appeal bearing No. 01 of 2017. Vide such order, the Ld. State Commission had allowed the Appeal while substantially upholding the Order dated 17.11.2016 passed by the District Consumer Disputes Redressal Forum, Puducherry, in Consumer Complaint No. 69/2008, but had also awarded interest @ 9% p.a. on the amount of Rs. 10.00 lakhs which had been awarded to the Complainant as her Insurance Claim by the Ld. District Forum.

2. The Revision Petition bearing no. 73 of 2023 has been filed by the Petitioner/ Opposite Party against the Respondent/ Complainant challenging the impugned Order dated 12.08.2022 passed by the State Consumer Disputes Redressal Commission, Puducherry, in First Appeal bearing Nos. 16 of 2017. Vide such Order, the State Commission had dismissed the Appeal in default while upholding the aforesaid Order dated 17.11.2016 passed by the

District Consumer Disputes Redressal Forum, Pondicherry, in Consumer Complaint No. 69/2008.

3. Both these Revision Petitions are being decided by this common order.

4. The brief facts of both the cases are that the Complainant's husband namely, Thiru K. T. Anbajagane, had taken a Personal Accident Insurance Policy under the scheme of Accident Shield Policy with the Opposite Party from 16.11.2006 to 15.11.2007 for an assured sum of Rs.10 Lacs, and had paid the premium amount of Rs.1,935/- under Policy bearing No. PAS BIG 0010 and certificate No. PS 00060432000100. However, the Complainant's husband died after receiving fatal injuries in a road accident on 23.02.2007. Consequently, the Complainant intimated the Opposite Party and claimed death benefits of Rs.10 Lacs under the Policy. However, the Opposite Party vide letter dated 17.03.2007 intimated the Complainant that Complainant's husband had requested the Opposite Party to cancel the said Insurance Policy and hence, the Opposite Party had refunded the premium amount of Rs.968/- with some deductions. It was the case of the Complainant that the Opposite Party had dishonestly stated in the letter about cancellation of the policy in order to defeat the claim. It was further stated that as per terms and conditions of the Policy, the Insurance Certificate could be cancelled by the insured person on 14 days' notice in writing sent under registered post acknowledgment due and this clause was given a go-by for the convenience of the Opposite Party. It was further stated that no Notice of Cancellation of the Policy had been given by Complainant's husband. The Complainant also issued a Legal Notice dated 12.08.2007 to the Opposite Party claiming the death benefits, but the Opposite Party failed to discharge its obligations. Therefore, the Complaint was filed before the Ld. District Forum alleging deficiency in services and unfair trade practices by the Opposite Party in failing to pay the claim amount to the Complainant and causing mental agony seeking directions upon the Opposite Party to pay Rs.10,00,000/- along with interest @ 1% from 24.02.2007 till its realization, Rs.1,00,000/- for indulging in unfair trade practice, and Rs.25,000/- as compensation and litigation costs.

5. The Opposite Party appeared before the Ld. District Forum and resisted the Complaint and denied all the allegations thereby denying deficiency in service on its part. It was contended that the Complainant's husband had taken the Policy through M/s SBI cards after receiving a Proposal from them since the Insured was holding an SBI Credit Card. The deceased Insured had requested the SBI Cards and Payment Services to cancel the said policy on 19.01.2007. Consequently, the Policy was cancelled by the Opposite Party and the premium amount of Rs.968/- was refunded on a pro-rata basis as per the Policy terms. It was further contended that the refund was reflected in the Credit Card Statement sent to the Insured by SBI Cards in January, 2007. The Opposite Party had replied to the claim of the Complainant vide letter dated 17.03.2007 intimating the cancellation of Policy. It was also contended that the cancellation was done only on the instructions and communication of deceased insured. Therefore, the Opposite Party prayed for dismissal of the complaint with costs.

6. The Ld. District Forum vide its Order dated 17.11.2016 allowed the Complaint by observing that the Opposite Party had cancelled the Policy without adhering to the terms and conditions of the Policy which is unilateral and arbitrary amounting to unfair trade practice.

Therefore, the Ld. District Forum directed the Opposite Party to pay Rs.10,00,000/-, Rs.1,00,000/- as compensation and Rs.5,000/- as litigation cost to the Complainant.

7. Aggrieved by the above Order, First Appeal bearing No. 01 of 2017 was filed by Appellant/ Complainant against the Respondent/ Opposite Party before the State Consumer Disputes Redressal Commission, Puducherry, praying for interest on the amount awarded by the Ld. District Forum and for enhancing the cost from Rs.5,000/- to Rs.25,000/-. The Ld. State Commission vide impugned Order dated 02.09.2022 allowed the Appeal relying on the judgement of this Commission in '*Guranna etc. and another v. Jitendra and Another*'. Therefore, the Ld. State Commission directed the Opposite Party to pay sum of Rs.10 Lacs with interest @ 9% per annum from date of complaint till its realization and award as to cost remained unaltered.

8. Aggrieved by the Order of Ld. District Forum, another First Appeal bearing No. 16 of 2017 was filed by Appellant/ Opposite Party against the Respondent/ Complainant before the State Consumer Disputes Redressal Commission, Puducherry. The Ld. State Commission vide impugned Order dated 12.08.2022 dismissed the Appeal for default as there was no representation on the Appellant's side.

9. Hence, the present Revision Petitions bearing Nos. 72 of 2023 and 73 of 2023 have been filed by the Petitioner/ Opposite Party against Respondent/ Complainant challenging the impugned Orders dated 02.09.2022 and 12.08.2022 respectively of the Ld. State Commission.

10. Heard the Ld. Counsels for Petitioner. Perused the material available on record. Considered;

11. That the deceased K.T. Anbajagane, husband of the Complainant, had taken the Accident Shield Policy, is not in dispute. Following his accidental death, however, the Petitioner repudiated the Complainant's claim by contending that the Insured had himself got his aforesaid Policy cancelled during his life time. Such contention was specifically denied on behalf of the Complainant. The burden of proving such cancellation was, therefore, squarely upon the Petitioner/Opposite Party. Condition No. 6 of the said Policy mentions about the manner in which the Policy can be cancelled at the choice of either the Insurer or the Insured. It provides as follows –

“6) The Company may at any time by giving 14 days notice in writing terminate the Certificate, provided that the Company shall in that case return to the Insured Person, the then last paid premium less a pro-rata thereof for the portion of the insurance period which shall have expired. Such notice shall be deemed sufficiently given if posted by Registered Post Acknowledgment Due and addressed to the Insured Person at the address last registered in the Company's books and shall be deemed to have been received by the Insured Person at the time when the same would be delivered.

Or

The Certificate may be cancelled at any time, by the Insured Person on 14 days notice in writing sent under Registered Post Acknowledgment Due. The Insured Person shall be entitled to the return of premium less premium at Company’s short period rates* for the period the Certificate as been in force....”

12. It is, therefore, seen that in either case 14 days’ notice in writing for cancellation ought to have been given by the concerned party seeking cancellation of the Policy, and, in case of the Insured person himself, he was also required to send such Notice under Registered Post Acknowledgment Due (RPAD). But by the own case of the Petitioner, no such Registered communication in writing was received from the Insured and actually cancellation was done allegedly on the request of the Insured made to “SBI Cards and Payments Services”, which was only the Platform through which the Premium for the Policy had been paid to the Insurer. Such Platform was neither the Agent of the Insured Person nor of the Insurer, for the purpose of seeking cancellation of the Policy which was an Insurance Contract directly between the Insured and the Insurer and the Platform/entity through which the Premium had been passed on, clearly had no further role in the matter. At any rate, the Petitioner/Opposite Party also could not place on record any communication actually received by it from the said payment Agency, forwarding or indicating any request coming directly from the deceased Insured person seeking cancellation of the Policy.

13. The District Forum was therefore eminently justified in allowing the Insurance Claim. No interest was, however, awarded for the delay in payment, which omission was subsequently made good by the Ld. State Commission in its impugned Order passed in FA/01/2017 by way of awarding interest on the delayed payment @ 9% p.a. from the date of filing of the complaint in favour of the Complainant. The same was done in the light of an earlier decision of this Commission in “*Guranna etc. and another v. Jitendra and Another*”, the relevant extracts of which have been extensively quoted by the State Commission in Para 13 of its impugned Order.

14. We, therefore, find no grounds to interfere with the decisions of the Ld. State Commission in First Appeal No. 1 and 16 of 2017. The Revision Petition, therefore, stands dismissed. No orders as to costs.

15. Pending application(s), if any, also stand disposed off as having been rendered infructuous.

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SUDIP AHLUWALIA
PRESIDING MEMBER

.....
DR. INDER JIT SINGH



