

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, FEROZEPUR**

C.C. No.268 of 2020

Date of Institution: 23.07.2020

Date of Decision:18.08.2023

Darshan Kumar (aged about 66 years) son of Talewar, resident of 113-A, Sant Lal Road, Ferozepur Cantt.

..... Complainant

Versus

1. New India Assurance Company Limited, 4th Floor, Surya Towers, 108-The Mall Ludhiana through its Chief Regional Manager.
2. New India Assurance Company Limited, through its Divisional Manager, Udham Singh Chowk, Ferozepur City.
3. Health India Insurance T.P.A. Services Pvt. Ltd., Neel Kanth Corporate Park, Kirol Road/Village Vidya Vihar Society, Vidya Vihar West Mumbai, through its Managing Director.
4. Canara Bank, presently situated at Malwal Road, Near More Ferozepur City through its Manager.

..... Opposite parties

Complaint under Section 12 of the
Consumer Protection Act, 1986.

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PRESENT :

For the complainant : Sh.Jatin Handa advocate

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For opposite party Nos. 1 & 2 : Sh Harish Chawla Advocate

For opposite party No.3 : Exparte

For opposite party No.4 : Sh Devesh Kakkar Advocate

QUORUM

Smt. Kiranjit Kaur Arora, President.

Smt Suman Khanna, Member,

ORDER

KIRANJIT KAUR ARORA PRESIDENT:-

Complainant has approached this Commission seeking directions to the opposite parties to pay Rs.22,576/- as medi claim alongwith interest, to pay Rs.1,00,000/- as compensation for mental agony, pain and harassment and Rs.10,000/- as litigation expenses.

2. Brief facts made out from the complaint are that the complainant is a regular policy holder of the New India Flexi Floater Group Mediclaim policy introduced by the New India Assurance Company Limited in collaboration with Canara bank Ferozepur City. He has been opting for the said scheme every year and since long he has been paying premium to the said scheme. In the said insurance policy, complainant himself and his wife namely Raj Dulari were

insured. It has been pleaded that the complainant got insurance policy bearing No.36070034190400000003 from opposite party Nos. 1 and 2 through opposite party No.4, which was valid for the period from 3.06.2019 to 2.06.2020 for sum insured Rs.3,50,000/-. It has been pleaded that during the subsistence of the policy, the wife of the complainant suffered ailment and she was hospitalized in PGI Chandigarh where she was admitted on 30.1.2020 and was discharged on 31.1.2020 after spending medical expenses of Rs.22,576/- in the PGI . Further it has been pleaded that the insurance company/TPA has not provided cashless facility for admission in the PGI. It has been pleaded that the complainant submitted all the required documents and bills to the opposite parties for reimbursement of the claim. But the opposite parties repudiated the claim of the complainant under clause 3.14.1 vide letter dated 4.3.2020 . The reason assigned is that the hospitalization means admission in a hospital for a minimum period of 24 hours. The rejection of the opposite parties is wrong and illegal. Pleading deficiency in service and unfair trade practice on the part of the opposite parties, hence this complaint.

3. Upon notice, the opposite party Nos. 1 & 2 have appeared and filed their joint written reply to the complaint raising certain preliminary objections interalia that the present complaint is misuse of process of law and is not

maintainable in the present form; that the complaint is false, frivolous and vexatious; that the complainant has not come to this Commission with clean hands ; that the reimbursement claim of insured Raj Dulari is for diabetic macular edema. As per the claim document, the patient was admitted with complaints of diabetic macular edema underwent intravitreal lucentic injection and as per policy terms and conditions intravitreal injection are not payable under day care list of procedures. Hence present claim is repudiated under policy clause 3.14.1. On merits, it has been pleaded that the claim of the complainant has rightly been repudiated under clause 3.14.1.(hospitalization) vide letter dated 4.3.2020 and the complainant has been informed. Other allegations of the complaint have been denied.

4. Opposite party No.3 was proceeded against exparte vide order dated 15.4.2021.

5. Upon notice, opposite party No.4 has appeared through his counsel and filed its written reply to the complaint raising certain preliminary objections interalia that there is no deficiency in service on the part of opposite party No.4 and that the complainant has no right, locus standi or cause of action to file the present complaint against opposite party No.4. On merits, it has been pleaded that the premium amount was paid to the insurance company and there is no claim

against the opposite party No.4.

6. Learned counsel for the complainant tendered into evidence Ex.C-1 to Ex.C-45 and closed evidence on behalf of the complainant. On the other hand, learned counsel for opposite party Nos.1 & 2 has tendered into evidence Ex.OP1 & 2/1 to Ex. Op1 & 2/2 and closed evidence on behalf of opposite party Nos.1 & 2. The learned counsel for opposite party No.4 has closed evidence on behalf of opposite party No.4 after tendering into evidence Ex.OP4/1.

7. We have carefully examined all the documents/evidence produced on record for its contained statutory merit and have also judiciously considered and perused the arguments duly put forth by the learned counsels for the parties.

8. It is the admitted case of the parties that the complainant took insurance policy from opposite party Nos.1 & 2 in which complainant alongwith his wife were covered and the sum assured for the said policy was Rs.3,50,000/-. The said policy was valid from 3.06.2019 to 2.6.2020, copy of insurance policy is Ex.C-6 and during the subsistence of this policy, the wife of the complainant suffered from ailment and she was hospitalized in PGI Chandigarh where she was admitted on 30.1.2020 and was discharged on 31.1.2020. She spent medical expenses of Rs.22,576/- in the PGI. To prove this version, the complainant has placed bills of Rs.22,536/-. The complainant submitted all the required

documents and bills to the opposite parties for reimbursement of the claim. But the opposite parties repudiated the claim of the complainant under clause 3.14.1 vide letter dated 4.3.2020. The reason assigned is that the hospitalization means admission in a hospital for a minimum period of 24 hours. The rejection of the opposite parties is wrong and illegal.

9. The learned counsel for the opposite parties argued that the claim of the complainant is not payable under the policy terms and conditions as the procedure/treatment usually done in outpatient department are not payable under the policy even if converted as an in patient in the hospital for more than 24 hours. Therefore, the claim of the complainant rightly repudiated by the opposite parties vide letter dated 4.3.2020, which is Ex.C-1.

10. The learned counsel for the complainant contended that the doctor is incharge of the patient, is the best judge according to the circumstances. The patient must be carefully monitored as medicine can result in adverse reaction Hence the procedure was conducted and admission is necessary for given injection of Lunctis after intervals at 2 to 4 hours. It concluded that the procedure could not have been carried out an OPD basis. He reliance upon the decision of the Honble Punjab & Haryana High Court in case titled as *New India Assurance Company*

Limited Vs. Smt.Usha Yadav & Others 2008(3) RCR (Civil) Page 111 went on to hold as under:-

“It seems that the insurance companies are only interested in earning the premiums and find ways and means to decline claims. All conditions which generally are hidden need to be simplified so that these are easily understood by a person at the time of buying any policy. The Insurance Companies in such cases rely upon clauses of the agreement, which a person is generally made to sign on dotted lines at the time of obtaining policy”.

Similar view has been taken in **New India Assurance Co. Ltd. Versus Sunil Kumar Saini** decided on 16.07.2015 by the Hon’ble State Commission, Delhi.

11. The learned counsel for the complainant argued that it is generally seen that insurance companies are only intended in earning the premiums and find way and means to decline claim. The opposite parties wrongly and illegally repudiated the claim of the complainant on the lame excuse and flimsy ground/remarks.

12. From the above said discussion, this Commission is observed that it is clear that there is no dispute as regards to the policy particulars, period of policy, sum insured. Due to the new technology, sometimes patients are treated in less time even or without hospitalization, if the patient is not admitted or is treated within a short time after admission due to new techniques, the insurance company cannot reject the claim on the ground that the patient was not admitted. It transpires that the genuine claim of the complainant has been repudiated by the opposite parties without any reasonable excuse. It is usual with the insurance companies to show green pastures to the consumers when they are to sell their policies. But however when it comes to the payment for claim, they invent all sort of excuses to deny the claim. In the present complaint, the opposite parties repudiated the claim under the clause 3.14.1, which shows the hospitalization procedure, but there is nowhere mentioned that the said eye treatment was not cover. The rejection of the claim of the complainant, amounts to deficiency in service.

13. Therefore, as a sequel of the above discussion considering the facts and circumstances of the case and relying upon the above quoted judgments and the principles of equity, fairplay and natural principles of justice, this Commission is of considered opinion that the rejection of the medical claim of the complainant is not justified. Hence, the complaint in hand is hereby partly allowed and the

claim rejection letter dated 4.03.2020 of opposite parties (Ex.C1) is hereby set aside. Further, opposite party Nos.1 & 2 are directed to pay Rs.22,536/- along with interest @ 6% P.A. from filling of the present complaint i.e. 23.07.2020 till its realization within forty five days from the date of receipt of copy of this order, failing which opposite party Nos. 1 & 2 shall pay the said amount along with interest @ 9% P.A. to the complainant, in addition to this opposite party Nos.1 & 2 are directed to pay Rs.5000/- in lump sum as deficiency in services and litigation charges to the complainant. The complaint could not be decided within the stipulated period due to heavy pendency of cases. Copy of the order be communicated to the parties concerned free of charges. After compliance, file be consigned to record.

Announced

18.08.2023

(Suman Khanna)
Member

(Kiranjit Kaur Arora)
President