

Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

“ An aware consumer is an asset to the nation”

Website : www.advantageconsumer.com

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ADVANTAGE - III

Queries & Answers through the Web

(www.advantageconsumer.com) is the website of Consumer Protection Council, Rourkela. One of the major attractions of the website is that a visitor can ask queries on issues relating to consumer protection. Answers to these queries are made free of cost, by the Chief Mentor of the Council, Sri B. Vaidyanathan.)

CONSUMER PROTECTION COUNCIL, ROURKELA CELEBRATED “WORLD CONSUMER RIGHTS DAY - 2022”



The “World Consumer Rights Day” was celebrated on Tuesday, 15th March 2022 at Rourkela Club, Sector-20, Rourkela.

The programme inaugurated with lighting up the Ceremonial Lamp by Council President, **Mr. A.K. Goswami** delivered welcome address and council’s brief introduction. While Joint Secretary, **Mr. Rajib Kumar Nayak** presented detailed activities of the council. Later, our executive committee member Shri B.D. Tripathy addressed the gathering consisting of Council members, newly enrolled members. He elaborated this year theme for **World Consumer Rights Day 2022 “ Fair Digital Finance”** and reason behind to achieve a transparent and fair system when it comes to dealing with digital finance services and gave some tips about the new Consumer Protection activity. Prizes were distributed to winners of online Painting Competition, which was held on Sunday, 6th March 2022. Later, members and audience participated in an open session for discussion and suggestion relating to solution of day to day activities against present challenges through CPC, Rourkela. At the end, Executive Member **Mr. Bharat Kumar Behera** proposed a formal Vote of Thanks. Our active member **Mr. Amitav Thakur** did the job of Master of Ceremony in perfect way. Treasurer **Shri A. Samantray** and Executive Members **Mr. B.C. Mishra**, and council staff **Mr. Sanjay Senapati** participated in the event. More than 50 people including members and guests were present. Our special thanks to **Our Chief Mentor Shri Vaidyanathan**, and our Hon’ble Secretary **Shri Bhimasesn Pradhan** for their kind guidance.

Repudiation of Insurance claim by Bajaj Allianz found inadmissible.

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 723 OF 2020

(Against the Order dated 12/12/2019 in Appeal No. 1198/2016 of the State Commission Uttar Pradesh)

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

.....Petitioner(s)

Versus

SANTOSH KUMAR RAI
S/O. LATE GAURISHANKAR RAI, R/O. CHAUPN, THANA
CHOPN,
DISTRICT-SONEBHADRA
UTTAR PRADESH

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE KARUNA NAND BAJPAYEE, PRESIDING MEMBER

Dated : 02 Sep 2021

ORDER

Taken up through video conferencing.

Heard the learned counsel on admission.

Perused the entire material on record.

1. This revision petition has been filed under Section 21(b) of The Consumer Protection Act, 2019, in challenge to the Order dated 12.12.2019 of The State Consumer Disputes Redressal Commission, Lucknow, in Appeal No. 1198 of 2016 arising out of the Order dated 13.05.2016 of The District Consumer Disputes Redressal Commission, Sonebhadra in Consumer Complaint No. 62 of 2015.
2. In the interest of justice, considering the COVID-19 situation, and in order to settle the matter on merit, the delay of 144 days in filing the instant revision petition is being condoned.

3. The dispute relates to repudiation of an insurance claim on the damage of a machine in question (i.e., Tata Hitachi Poclairn machine).

It is admitted that the premium was paid and the insurance policy was valid at the time of incident.

The District Commission, vide its Order dated 13.05.2016, had partly allowed the complaint and ordered the opposite party insurance co. (the revisionist herein) to pay Rs. 11,89,084/- to the complainant for repair of the machine in question along with annual interest at the rate of 6% per annum from the date of filing of the complaint till the date of its actual realisation, Rs. 10,000/- per month as financial loss from 02.05.2014 till the actual date of realisation, Rs. 5,000/- as mental agony and Rs. 5,000/- as of litigation.

The State Commission re-appraised the evidence, and, for reasons recorded, had modified the order of District Forum and set aside the directions to pay Rs. 10,000/- as financial loss and Rs. 5,000/- as mental agony. Rest of the Order of the District Forum was upheld.

4. The sole submission of learned counsel for the petitioner insurance co. is that the vehicle in question got overturned and it takes the matter beyond the ambit and scope of the policy cover and this aspect has not been appreciated by the fora below, therefore, the order passed by the State Commission should be set aside.

5. This bench has gone through the Order passed by the District Commission as well as the Order passed by the State Commission and the relevant material on record in the light of the submissions made by learned counsel for the petitioner insurance company.

This bench is of the considered opinion that the submission as has been made by learned counsel for the petitioner has been specifically dealt with in the impugned Order.

The report of the investigator of the insurance company has been duly considered and the finding has been returned on that basis as to how the vehicle machine in question got damaged falling down 70 feet below due to soil erosion or landslide. It has also been found that such a situation clearly attracts the insurance policy cover. It has also been observed that if some expression has got two meanings, then the one in favour of the policy holder ought to be preferably adopted. The Commission below was satisfied on the fact that the said incident damaging the machine was not because of any negligence of the operator, instead, the same happened because of reasons which had nothing to do with the expertise of the vehicle machine operator. The relevant points of insurance policy have also been duly considered and analysed by the fora below.

The impugned order reflects not only the correct application of mind but also shows that the entire matter has been proceeded with judiciously keeping the facts of the case in right perspective.

The bench does not find any palpable misappreciation of the evidence by the two fora below as may cause to require fresh *de novo* re-appreciation of facts in revision and the bench also does not find any point of law or fact having bearing on the outcome of the matter left unaddressed or wrongly addressed by the two fora below.

