Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

" An aware consumer is an asset to the nation" *Website : www.advantageconsumer.com*

VOLUME – XXXVIII **OCTOBER 2026** **ADVANTAGE – X**

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.)

Harassment by Consumer Court

I am Tarsem Lal Sharma from Uttarakhand State, and my query is pertaining to my Consumer case filed in 2023. It is at the stage of OP-evidences in which the Opposite party is a Housing Finance Company-NBFC. The said Company had changed its name in 2025. The change is confined to name only i.e. the entity remains the same, without any change in Registration details, including address.

It is relevant to note that even the Opposite Party moved an application before the Consumer Court to amend the name of the Opposite Party in the Cause Title of the contesting parties.

Accordingly, the Consumer Court allowed the application and amended by adding the revised name " **B**" as **OP no.-02**, while retaining the original name "**A**" as **OP no.-01**. Now, they have directed me to serve notice to **OP no.-02** to file the Written Statement.

My question is since "**A**" as **OP no.-01** has already filed the written statement and **"B**" as **OP no.--02** is one and the same Company as **"A"**, except for name change, why a second notice is to be served?

Kindly guide me as what shall I do now?

Thanking You
Tarsem Lal Sharma
Uttarakhand.

ANSWER

Actions of the Consumer Court are baffling. Since the OP has already responded to the notice and filed its written version in 2023 itself, why should there be a need to serve a second notice in 2026, even if they had changed their name in 2025? The Commission (Consumer Court), having been informed of the change in the name, by the OP themselves, needs to pronounce the Order, mentioning the names of both the entities.

As an affected individual you can share your bitter experience with the concerned State Government, NCDRC, New Delhi and the Ministry of Consumer Affairs, Govt. of India, with all the relevant particulars.

For future, please note the following:

1. Avoid sending file attachments.

2. Remember to mention your contact address, as queries without address are not responded to.

Continued from September 2026 issue....

Complainant failed to establish the loss to the stock of tendu leaves occurred due to any insured peril covered under the Insurance Policy and consequently, the repudiation of the claim by the Insurance Company is not unjustified.

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

PRONOUNCED ON: 18.06.2026

FIRST APPEAL NO.751 OF 2015

(From the order dated 25.8.2015 in Complain Case No. CC/14/21 of the State Consumer Disputes Redressal Commission, Chhattisgarh, Pandri, Raipur)

Balwant Shukla, Age 59 years,
So Late Kashinath Shukla,
R/o: Premnagar, Post - Basantpur,
Tehsil: Wadrafnagar, District Balrampur (C.G.)
Through: General Power of Attorney Holder
Rajesh Kumar Jaiswal,

S/o: Bhagwan Das Jaiswal,
R/o : Namnakala, Ambikapur,
Tahsil and District:Surguja (C.G.) ... Appellant/Complainant

Versus

The Oriental Insurance Company Limited,
Through: Branch Manager,
Branch Office : Ambikapur,
Manendragarh Road,
Near Ambedkar Chowk,
Ambikapur, District:Surguja (C.G.) ... Respondent/OP

BEFORE:

HON'BLE MR.JUSTICE SUDIP AHLUWALIA, PRESIDING MEMBER
HON'BLE AVM J. RAJENDRA, AVSM VSM (RETD.), MEMBER

JUDGMENT

15 ....damage complained of. The record reveals that immediately after intimation of the claim, the OP appointed Mr Arunendra Pratap Singh as Preliminary Surveyor, who submitted his report dated 10.05.2014. The surveyor recorded that the roof, walls and doors of the godown where the insured stock was stored were intact. No damage whatsoever was noticed to the structure of the godown. He further reported that no storm, tempest or rain had occurred in the area from the inception of the policy till the date of loss. He concluded that the damage to the stock of bidi leaves had not occurred due to any insured peril and that deterioration of the stock was outside the scope of the insurance policy. The State Commission examined the duties and responsibilities of surveyors under the surveyors and

Regulations, 2000 and recorded a finding that a surveyor is competent to examine whether a claim falls within the purview of the policy, to assess liability under the contract of insurance and to opine whether a claim is payable or otherwise. We find no reason to disagree with the said finding.

16. The principal challenge of the Complainant is against the reliance placed upon the preliminary survey report. It was argued that the surveyor was not competent to determine policy coverage, that he had not obtained any meteorological report, and that no final surveyor was appointed. We are unable to accept these contentions.

17. Firstly, the surveyor's report cannot be discarded merely because it is a preliminary report. Secondly, the absence of a meteorological report, by itself, does not establish the occurrence of an insured peril. Thirdly, except questioning the competence of the surveyor and the methodology adopted by him, the Complainant failed to produce any independent material to demonstrate that the loss was caused by a peril covered under the policy. The Complainant sought to contend that the damage was attributable to ingress of water where the insured stock was located and its consequent deterioration. However, no reasonable evidence has been brought on record to establish that rainwater had entered the godown or that any storm, flood, inundation or other insured peril occurred during the currency of the policy. As rightly noticed by the State Commission, the Complainant failed to file any document or weather report indicating that rainwater had entered the godown and caused damage to the tendu leaves.

18. We also find substance in the reasoning adopted by the State Commission that once the surveyor had concluded that the loss itself did not arise from an insured peril and was outside the scope of the policy, appointment of a final surveyor merely for quantification of loss was not necessary. The question of assessment of loss would arise only if the claim was otherwise found to be covered under the policy. The material available on record supports the insurer's case that the insured tendu leaves had remained stored for a prolonged period and that the damage complained of was in the nature of gradual deterioration, ageing or decay of the stock. The insurer's stand that the damage was attributable to deterioration of old stock and not to any fortuitous insured event has not been effectively rebutted by the Complainant.

19. Insurance contracts indemnify losses arising from risks specifically covered under the policy and do not extend to losses occasioned by inherent deterioration, ageing, decay or gradual degradation of goods, unless such risks are expressly insured by the Complainant. In the present case, no material has been brought on record to establish that the deterioration of the insured stock complained of was the consequence of any insured peril operating during the currency of the policy. The State Commission, after considering the evidence on record, categorically held that the Complainant had failed to prove that the damaged stock came within the purview of the policy conditions and that the damage was caused by any insured peril. It further held that the deterioration of the insured stock was outside the scope of the policy and that the repudiation of the claim was justified.

20. Upon our independent examination of the pleadings, evidence and the survey report, we find ourselves in agreement with the aforesaid findings of the learned State Commission. The Complainant has failed to establish that the alleged loss to the stock of tendu leaves occurred due to any insured peril covered under the Standard Fire & Special Perils Policy. Consequently, the repudiation of the claim by the OP Insurance Company cannot be said to be arbitrary, illegal or constituting deficiency in service.

21. We thus find that there is no inclusion Clause covering damage on account of seepage of water which would cause moisture and consequent natural decay of the stock. At any rate, it was never the case of the Complainants nor there is any material on record to indicate that in between the limited span of the very few days from the date of commencement of Policy till the undisclosed date on which the Complainants had seen the damage stock, there had been any rain fall or other factor of such force which could have had the effect of causing the storeroom to be flooded or inundated.

22. In view of the foregoing discussion, we find no illegality or jurisdictional error in the impugned Order dated 25.08.2015 passed by the learned State Commission warranting interference in exercise of our appellate jurisdiction. The impugned Order dated 25.08.2015 is affirmed. Consequently, First Appeal Nos. 751 of 2015 and 755 of 2015 are dismissed.

Considering the circumstances of the case, there shall be no order as to costs.

All pending Applications, if any, are also disposed of accordingly.

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There is no illegality in deciding an Appeal in totality, though the 3rd Member of the Bench might have been referred to answer limited issues pertaining to the case.

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 11988 OF 2026

[Arising out of SLP (C) NO.19685 OF 2025]

ASKARI HUSSAIN AND ORS. **…APPELLANTS**

VERSUS

DINESH KUMAR AND ORS. **…RESPONDENTS**

J U D G M E N T

DIPANKAR DATTA, J.

1. Leave granted.

2. This civil appeal takes exception to the judgment and order dated 11thDecember, 2024 of a Single Judge of the High Court of Judicature at Allahabad. Vide the impugned order, the Single Judge an

application under Article 227 of the Constitution of the first respondent by directing, inter alia, as follows:

"…21. In the present case, the order impugned has gone in excess of the powers conferred on the referring member. On the said limited ground, there being an improper exercise of jurisdiction by the member, to whom the question has been referred, the impugned order cannot be sustained and is quashed. The matter shall now be heard afresh by the 3rd member who shall give his opinion on the questions referred and send the matter back to the Division Bench of the National Commission to be decided accordingly."

3. Facts reveal that the first respondent had carried an appeal to the National Consumer Disputes Redressal Commission, New Delhi from a final order dated 4th December, 2012 of the State Consumer Disputes Redressal Commission, Uttar Pradesh in Complaint No. 13 of 2006, lodged by the appellants. The SCDRC had allowed the complaint and awarded compensation of Rs.95 lakh to the appellants together with interest of 15%.

4. While hearing the appeal, the two members on the Bench of the NCDRC differed in their opinions. The presiding member allowed the appeal and dismissed the complaint lodged by the appellants by his order dated 19th March, 2021. However, the companion member while disposing of the appeal, vide his order of even date, modified the order under challenge by reducing the compensation and interest to Rs.93 lakh and 12%, respectively.

5. A reference accordingly followed under Section 58(3) of the Consumer Protection Act, 2019. The third member, to whom the matter was referred, rendered his opinion on 9th January, 2024 disagreeing with the opinion of the presiding member of the referring Bench and agreeing with the opinion of the companion member thereof. While so opining, the third member directed as follows:

"…23. With the aforesaid observations, these appeals are disposed off after concurring with the findings of the Hon'ble Member Mr. ***, with the modifications that the total compensation awardable to the Respondents/Complainants is now reduced from Rs. 95 lakhs to Rs. 93 lakhs, out of which, the personal share of the complainant No. 3 is reduced to Rs. 23 lakhs, while the entitlement of the Complainant No. 1 is retained at Rs. 20 lakhs, and the balance amount of Rs. 50 lakhs is found payable to the Complainant No. 2. It shall be paid to her directly if the concerned specialist Doctors in the Sanjay Gandhi Postgraduate Institute of Medical Sciences, Lucknow can certify that now her condition has now so improved that she is in a position to rationally and practically utilise the amount directly for her own welfare. If not, the same shall be paid to a Guardian of her own choice, if she is in a position to choose and communicate about her chosen Guardian personally, or otherwise, the payment shall be made to her husband (Complainant No. 1) in which event, needless to mention, his duty shall be to ensure that the said amount is strictly and faithfully utilised for her welfare and future treatment as warranted. The amount of interest on the compensation thus awarded in the case, which was reduced from 15% to 10% by Hon'ble Mr. ***, is retained from the date of passing of the impugned order by the state commission, i.e., 04.12.2012. In addition, litigation costs of Rs. 10,000/- are awarded in favour of the Complainant No. 1/respondent No. 1 in each of the appeals.

24. The complete compensation with up-to-date interest till the date of actual payment is to be paid by the Appellants to the complainants within three months from the date of this order, during which period the Complainants will secure the certificate from the specialist Doctors of the Sanjay Gandhi Postgraduate Institute of Medical Sciences, Lucknow regarding the mental and physical condition of the Complainant No. 2, after which the payment shall be made in accordance with the directions passed in the previous paragraph. Any outstanding payments beyond the time limit fixed by this Bench shall attract interest at the rate of 12% per annum till the date of final realisation."

6. Aggrieved thereby, the first respondent had approached the High Court. The fate of his application under Article 227 has been noted above.

7. The short question that emerges for decision in this appeal is, whether the third member was justified in deciding the appeal itself while concurring with the opinion of the companion member of the referring Bench or, should he have, after recording his answers to the questions referred, returned the case to the referring Bench to pass an appropriate order resting on the majority opinion?

8. In making the order, impugned in this appeal, the Single Judge of the High Court placed reliance on two decisions of this Court, namely, Kesho Nath Khurana vs Union of India and Others and Commissioner of Income Tax, Delhi & Bansi Dhar and Sons and a Full Bench decision of the High Court in Shriram Industrial Enterprises Limited vs. The Union of India and Others.

9. The High Court noted that the third member was required to answer the following five questions:

"1. Whether the Complainant/Respondent had been able to lead satisfactory documentary or oral evidence to link the association of the Appellant Doctor in FA/30/2013 with "Surya Medical Centre" where the Complainants wife was allegedly admitted, and then given improper treatment?

2. Whether the Complainant/Respondent had been able to lead satisfactory documentary evidence to establish that his wife had at all been admitted or operated upon in the said "Surya Medical Centre"?

3. Whether this Commission would be justified in drawing any conclusions on the basis of any oral explanations or circumstances being narrated by Complainant which were not referred to in the original Complaint, to overcome the apparent handicap of lack of satisfactory evidence?

4. Whether the Complainants submission that all the relevant medical documents supposed to have been issued to him by "Surya Medical Centre" were withheld from him, or that for some satisfactory reasons he had omitted to obtain such documents from the said Medical Centre?

5. Whether in the given circumstances, in a proceeding of summary nature would it have been proper to accept the uncontroverted oral Affidavit of the Complainant's family member on the premise that they were not subjected to any cross-examination?"

To be concluded in the next issue.....

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