Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

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VOLUME – XXXVIII SEPTEMBER 2026 ADVANTAGE - IX

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.)

Continued from August 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

<u>**JUDGMENT**</u>

4. The insurance cover was granted on the principle of utmost good faith, without any physical inspection or verification. It was stated that Standard Fire & Special Perils Policy No.191400/11/2015/19 for the period from 21.04.2014 to 31.07.2014 was issued pursuant to a contract executed with the Managing Director, CG. State MFP (T&D) Co-Operative Federation Ltd. Therefore, the Complainant was neither a consumer of OP nor entitled to claim compensation for the alleged loss. The OP denied that the Complainant discovered deterioration of the stock during April, 2014 or that he suffered a loss of Rs.25,00,000. Reliance was placed on his letter dated 30.04.2014, wherein it was stated that the bidi leaves were stored in the godown for the previous two years and insured only on 22.04.2014. According to the OP, the tendu leaves remained stored in the godown for over two years prior to commencement of the insurance cover, were purchased on an "as is where is basis" for commercial purposes and had deteriorated before inception of the policy. The OP relied upon the preliminary survey report of Shri Arunendra Pratap Singh, Surveyor, who found that the godown belonged to Smt. Anju Jaiswal and its roof, walls and doors were in good condition. No storm, tempest, rain or inundation occurred in the area during the relevant period. The Surveyor reportedly observed that the bidi leaves were stored in the godown since 2012. The damage noticed upon removal of the stock after 22.04.2014 occurred prior to inception of the policy. The OP further stated that the Complainant's Power of Attorney Holder was the husband of the owner of the godown and maintained that the claim was rightly repudiated vide letter dated 06.06.2014 and that no deficiency in service or unfair trade practice was attributable to it.

5. The learned State Commission vide order dated 25.08.2015 dismissed the complaint with the following directions:

37. ***The complainant has not been able to prove that the stock of the tendu leaves, which was damaged comes within purview of the insurance policy condition or covered under the insurance policy. The complainant has also not been able to prove that the damaged tendu leaves was insured with the OP.***
38. ***On the basis of Preliminary Survey Report of Shri Arunendra Pratap Singh, Surveyor & Loss Assessor, it appears that the damage of stock of bidi leaves did not occur due to any insured peril and the deterioration of insured stock is outside the scope of the insurance policy. The O.P. has rightly repudiated the claim of the complainant and the complainant is not entitled to get any compensation from the O.P.***
39. ***Therefore, the complaint of the complainant is liable to be and is hereby dismissed. No order as to the cost of this complaint."***

6. Being aggrieved by the order dated 25.08.2015 passed by the State Commission, the Complainant filed the present Appeal mainly raising the following grounds:

A. The State Commission failed to appreciate that the OP had inspected the premises, verified the stock and its value, examined the relevant records and documents relating to the Tendu leaves purchased from the Forest Dept, accepted the premium, and issued the insurance policy through M.D., C.G. State M.F.T. (T&D) Co-operative Federation Ltd. in the name of Shri Balwant Shukla.

B. The State Commission erred in relying upon the report of the preliminary surveyor, Shri Arunendra Pratap Singh as he was not competent to determine issues relating to policy coverage or to conclude that the loss had occurred prior to inception of the policy and that such findings were contrary to the evidence and documents available on record.

C. The State Commission failed to properly consider the cross-examination of the surveyor and the Branch Manager, which materially supported the claim of the Complainant and failed to appreciate that the preliminary surveyor merely submitted a report without assessing the loss and that no final surveyor was appointed by the OP. such conduct indicated a predetermined intention to repudiate the claim, which is contrary to the prescribed procedure governing surveyors and loss assessors.

D. The State Commission erred in holding that the loss was not caused by an insured peril and in rejecting the claim, despite evidence showing damage to the insured stock by water. It erred in relying upon the surveyor's report despite the absence of a weather report. The surveyor failed to establish his competence and scope to conduct the preliminary survey.

7. In his arguments, the learned counsel for the complainant reiterated the facts mentioned in the complaint and argued that despite completion of the survey process, the claim remained unsettled and was eventually repudiated vide letter dated 06.06.2014 on the grounds that the loss had not occurred due to any insured peril and that deterioration of stock was outside the scope of the policy. He argued that the repudiation of the claim was arbitrary and contrary to the terms and conditions of the insurance policy, despite the loss being genuine and all requisite documents having been duly furnished. He contended that the OP Insurance Company, having accepted the premium and issued the policy after verification of the insured stock, failed to honour its contractual obligations and wrongfully repudiated the claim, thereby committing deficiency in service and unfair trade practice, resulting in financial loss and mental agony to the Complainant. The learned counsel asserted that although the State Commission held the complaint to be maintainable and recognized the Complainant as a consumer, it erroneously dismissed the complaint without properly appreciating the evidence on record. The State Commission failed to consider that the insurance policy was issued after inspection and verification of the stock and valuation thereof. After the acceptance of premium by the OP, conclusion that the loss was not covered under the policy was unsustainable. He argued that the State Commission placed undue reliance upon the preliminary survey report of Shri Arunendra Pratap Singh, who was not competent to determine issues relating to policy coverage and

erroneously concluded that the loss occurred prior to the inception of the policy. He further argued that the surveyor had merely submitted a preliminary report without assessing the loss and that the failure of OP to appoint a final surveyor indicated that the decision to repudiate the claim was predetermined. The learned counsel further argued that the State Commission failed to appreciate that the insurance policy had been issued only after examination of the stock and documents furnished by the Complainant and, therefore, the findings of the preliminary surveyor regarding the age and condition of the stock were erroneous and unworthy of reliance. He contended that the State Commission also failed to properly consider the cross-examination of the Surveyor and the Branch Manager, wherein the surveyor allegedly failed to produce material establishing his competence and authority to conduct the preliminary survey despite objections raised. The State Commission overlooked the duties and responsibilities of a surveyor and loss assessor and accepted the conclusions recorded in the preliminary survey report without adequate scrutiny. The State Commission also failed to properly interpret the Standard Fire & Special Perils Policy and overlooked material documents relating to the loss. He asserted that the preliminary surveyor had not obtained any weather report from the Meteorological Department before expressing his opinion regarding the cause of loss, thereby rendering his conclusions unreliable. Despite clear evidence demonstrating substantial loss suffered by the Complainant, the State Commission failed to grant any compensation. He sought that the impugned order be set aside and the reliefs claimed be granted.

8. The learned Counsel for OPs argued that the Complainant was not a "consumer" within the meaning of the Consumer Protection Act, as the tendu leaves had been purchased for resale and the transaction was admittedly commercial in nature. It was further argued that the insurance policy was issued on the principle of utmost good faith and not after any physical verification of the stock. According to the OPs, the tendu leaves were lying in the godown since 2012 and were purchased by the Complainant in 2014 from the Forest Department on an "as is where is" basis. Reliance was placed on the Complainant's letter dated 30.04.2014 to contend that the stock was already old and that no plea regarding prior physical verification by the insurer had been taken therein. It was contended that the policy had been issued in the name of the Managing Director, CG State MFP (T & D) Co-operative Federation Ltd., therefore, the Complainant was not a consumer of the insurer. The learned counsel further argued that the alleged loss did not arise from any insured peril covered under the Standard Fire & Special Perils Policy. He asserted that none of the specified perils covered under the policy had occurred during the policy period. Reliance was placed on the surveyor's report, wherein it was concluded that the loss did not fall within the scope of the policy coverage. It was also pointed out that the Complainant had neither pleaded nor established that the damage was caused by any insured peril. The loss was attributable to deterioration and rotting of the stock, which was outside the scope of the policy. Referring to the surveyor's findings that no storm, rain, tempest or inundation had occurred in the area during the currency of the policy, it was argued that the stock had already deteriorated prior to commencement of the insurance cover on 21.04.2014. Consequently, the insurer could not be held

liable for a loss that had occurred before the inception of the policy. On the aforesaid grounds, ld. Counsel prayed for dismissal of the Appeal.

9. We have examined the pleadings and associated documents placed on record and rendered thoughtful consideration to the arguments advanced by the learned counsel for the both the parties.

10. The principal controversy in the present case pertains to the nature and cause of the damage allegedly suffered by the stock of tendu leaves; and whether such loss falls within the coverage of the Standard Fire & Special Perils Policy.

11. At the outset, we find that the State Commission has rightly rejected the objection raised by the OP regarding the status of the Complainant as a consumer. The State Commission, after examining the insurance policy and the agreement executed between the Conservator of Forest/Officiating General Manager, CG. State MFP (T&D) Co-operative Federation Ltd. and the Complainant, recorded a finding that the Standard Fire & Special Perils Policy had been obtained by the MD, C.G. State MFP (T & D) Co-operative Federation Ltd. for the benefit of the Complainant. The policy specifically mentioned the insured as "MD, CG State MFP (T&D) Co.-Opp. Fed. Ltd., East SurgujaDivision A/c Balwant Shukla" and identified the risk location as the godown of Smt. Anju Jaiswal at Prem Nagar. The State Commission therefore rightly concluded that the Complainant was duly covered under the policy. It further observed that a contract of insurance is a contract of indemnity and obtaining an insurance policy is not, by itself, a commercial activity. We find no infirmity in the said finding.

12. At the same time, however, the maintainability of the complaint does not by itself establish the liability of the Insurer. The crucial question remains whether the loss claimed by the Complainant was caused by an insured peril covered under the policy?

13. The case of the Complainant is that the insured stock suffered damage during the currency of the policy and that the OP wrongly repudiated the claim despite the validity of the policy. The Complainant also challenged the correctness of the preliminary survey report and contended that no final surveyor was appointed. Per contra, the OP Insurer has consistently maintained that the loss was attributable to deterioration of old stock and not to any insured peril covered under the policy in question as per the insurer, the tendu leaves remained stored in the godown since the year 2012 and had already deteriorated prior to the commencement of the insurance cover. The records reveal that the claim submitted by the Complainant in each case was on 30.04.2014, whereas the Policy in question had commenced just nine days earlier on 21.04.2014. It was mentioned in the Claims that the insured stock was lying in the store concerned from as far back as the Year 2012. It is also a matter of record that the Complainants sought to represent that damage had occurred on account of purported seepage of rainwater resulting in decay of the stored insured stock. The coverage for such purpose under the Insurance Policy was ostensibly in Clause VI of the Standard Fire & Peril Policy which happens to be as follows:

VI STORM, CYCLONE, TYPHOON, TEMPEST, HURRICANE,TORANDO, FLOOD AND INUNDATION:

Loss, destruction or damage directly caused by Storm, Cyclone, Typhoon, Tempest, Hurricane, Tornado, Flood or Inundation excluding those resulting from earthquake, Volcanic eruption or other convulsions of nature (wherever earthquake cover is given as an "add or cover" the words "excluding those resulting from earthquake volcanic eruption or other convulsions of nature" shall stand deleted).

14. It is well settled that in a claim arising under an insurance policy, the initial burden lies upon the insured to establish that the loss falls within the scope of the risks insured under the policy. Mere proof that goods have suffered damage is not sufficient. The insured must further establish that such damage was caused by a peril specifically covered under the contract of insurance.

15. In the present case, apart from asserting that the tendu leaves suffered damage, the Complainant failed to establish which insured peril covered under the Standard Fire & Special Perils Policy had occasioned and as a sequel thereto the alleged loss occurred. Neither the pleadings nor the evidence adduced on record satisfactorily identify the occurrence of any specific insured peril which caused the

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

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