

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, ERNAKULAM**

**Dated this the 29<sup>th</sup> day of September, 2025**

**Filed on: 16. 03. 2024**

**PRESENT**

Shri. D.B. Binu  
Shri. V. Ramachandran  
Smt. SreevidhiaT.N

Hon'ble President  
Hon'ble Member  
Hon'ble Member

**CC.No. 300 of 2024**

**COMPLAINANT:**

Joy Paulose, Edakattil House, Meckadambu P.O, Muvattupuzha-682316.  
(Adv. Tom Joseph, Court Road, Muvattupuzha -686661)

**VS**

**OPPOSITE PARTY:**

M/s Aditya Birla Health Insurance Company Ltd, 9<sup>th</sup> Floor, Tower1, One World Centre, Jupiter Mill Compound 841, Senapati Bapat Marg, Elphinstone Road, Mumbai-400013, Rep by its Managing Director.  
(Adv. Goutham Krishna U.B, Door No.302, White House Apartment, Deshiyakkavala, Thrikkakara.P.O, Ernakulam-682021. Permanent Address: Goutham Krishna .U.B, Advocate, Revathy, Padinjattinkara, Kottarakkara-691506)

**FINAL ORDER**

**D.B. Binu, President:**

**1. A brief statement of facts of this complaint is as stated below:**

The complaint was filed under Section 35 of the Consumer Protection Act,2019. The complainant holds a health insurance policy issued by the opposite party (Policy No. 31-23-0027329-00) incepted on 17.01.2024. On 01.02.2024, he sustained injuries from an accidental fall of ten feet at his residence, suffering blunt chest trauma with fractures of the 6<sup>th</sup> and 7<sup>th</sup> ribs, mild left pneumothorax, subcutaneous emphysema, and a fracture of the fifth metacarpal of the left hand. He was treated at the MOSCMM Hospital, Kolenchery, and incurred medical

expenses of ₹81,042/- per discharge summary and bills. The complainant sought cashless treatment under the policy, but the opposite party rejected the cashless request and later the claim, alleging nondisclosure of pre-existing ailments, varicose veins and dyslipidemia. On representation, the opposite party affirmed the repudiation. The complainant contends that the claim arises solely from an accident and is unrelated to any pre-existing disease requiring hospitalisation before policy inception. He submits that repudiation on these grounds is arbitrary, constitutes a deficiency in service and unfair trade practice, and has caused financial hardship. He therefore seeks reimbursement of ₹81,042/- with interest at 12% per annum from the date of claim until realisation, compensation of ₹30,000/- for hardship and financial loss, and costs of these proceedings against the opposite party.

## 2. **NOTICE:**

Notice was issued to the opposite party on 12.04.2024 and duly served. The opposite party entered an appearance by filing Vakalath on 11.06.2024; however, it failed to file the written version within the statutory period as stipulated under the Consumer Protection Act, 2019. Consequently, the matter proceeded ex parte against the opposite party.

## 3. **EVIDENCE:**

The complainant filed a proof affidavit and produced five documents, marked as **Exts. A1 to A5**, as under:

- **Ext.A1** — Copy of the policy schedule issued by the opposite party.
- **Ext.A2** — Copy of the discharge summary.
- **Ext.A3** — Copies of the medical bills.
- **Ext.A4** — Copy of the cashless rejection letter.
- **Ext.A5** — Copy of the reply received from the opposite party.

#### **4. POINTS FOR CONSIDERATION:**

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice by the opposite parties?
- iii) If so, whether the complainant is entitled to any relief?
- iv) Costs of the proceedings, if any?

#### **5. Summary of Written Argument Of the Complainant:**

1. This complaint challenges the repudiation of the mediclaim by the opposite party on the ground of alleged non-disclosure of pre-existing illness. The complainant's health insurance policy is evidenced by **Exhibit A1** (Policy Certificate).
2. The complainant sustained accidental injuries from a fall and underwent treatment; the Discharge Summary (**Exhibit A2**) records the history of present illness as "fall from 10 ft height." This shows the claim pertains to accidental trauma and not to any illness.
3. From the complainant's side, **Exhibits A1 to A5** were marked. No oral or documentary evidence was adduced by the opposite party despite notice.
4. The opposite party repudiated the cashless/claim alleging non-disclosure of varicose veins and dyslipidemia, as seen in the Repudiation/Rejection Letter (**Exhibit A4**) and the subsequent Reconsideration Reply (**Exhibit A5**). These communications ignore **Exhibit A2**, which contains no note of any pre-existing disease relevant to the present admission and clearly attributes hospitalisation to an accident.

5. The complainant is therefore entitled to reimbursement of the treatment expenses as per the Bills (**Exhibit A3**), totalling ₹81,042/-, with applicable interest and costs. In the circumstances, it is prayed that the complaint be allowed.

On perusal of the record, it is seen that notice was issued by the Commission to the opposite party, but no written version was filed. Accordingly, the opposite party was set ex parte. The complainant produced five documents, marked **Ext.A1 and Ext.A5**, which support his case. The opposite party neither appeared nor took steps to participate in the proceedings or to set aside the ex parte order.

The complainant contends—and we find merit in the contention—that the opposite party’s conduct is illegal, arbitrary, and unjustified, amounting to a deficiency in service and unfair trade practice, causing mental agony and hardship. The opposite party’s conscious failure to file its written version despite service of notice amounts to an admission of the allegations levelled against it; thus, the complainant’s case remains unchallenged. We find no reason to disbelieve the complainant’s version. A similar view has been taken by the **Hon’ble National Commission in 2017** (4) CPR 590 (NC).

We have meticulously considered the submissions of the complainant and thoroughly reviewed the entire record of evidence, including the argument notes. It is noted that the opposite party has neither filed any argument notes nor participated in the proceedings.

Issue (i): **Maintainability:**

Under Sections 2(7) (consumer), 2(42) (service), and 35 (complaint) of CPA 2019, an insured claiming indemnity for medical expenses against an insurer is a

consumer dispute. Territorial/pecuniary jurisdiction is not disputed. The complaint is maintainable.

Issue (ii): **Deficiency in Service / Unfair Trade Practice:**

(a) Legal standard. “Deficiency” is defined in Section 2(11) CPA 2019. In insurance disputes, the insurer bears the onus to justify repudiation and to establish the applicability of any exclusion. Exclusion clauses are construed strictly, and ambiguities operate contra proferentem against the insurer. The doctrine of uberrima fides requires disclosure of material facts; however, suppression must be material to the risk and have a nexus with the loss.

(b) Application to facts.

**Ext.A2** unequivocally records the cause of admission as an accidental fall; no pre-existing disease is recorded as the proximate cause of hospitalisation.

The opposite party produced no medical evidence showing that varicose veins or dyslipidemia contributed to, aggravated, or caused the injuries.

Repudiation letters **Ext.A4/A5** merely invoke non-disclosure, without establishing causation or materiality to the risk that actually materialised (accidental trauma).

Courts and Commissions have consistently held that where hospitalisation is for accidental injuries, repudiation on the ground of non-disclosure of unrelated pre-existing ailments is untenable, absent proof of causal nexus. The failure to file a written version within the timeline under Section 38(2) CPA 2019—read with ***New India Assurance Co. Ltd. v. Hilli Multipurpose Cold Storage (P) Ltd.***, (2020) 5 SCC 757—also justifies proceeding on the unrebutted record. In these circumstances, the repudiation is arbitrary and amounts to a deficiency in service under Section 2(11). The conduct also borders on unfair trade practice (Section

2(47)), as a blanket reliance on exclusions to deny an otherwise valid accident claim is unfair and deceptive.

(c) The complainant's affidavit with **Exts.A1-A5** remains unchallenged. We find no reason to disbelieve the complainant. A similar approach has been affirmed by the **Hon'ble National Commission**, 2017 (4) CPR 590 (NC).

**Finding:** Issue (ii) is answered in favour of the complainant.

Issue (iii) & (iv) — **Entitlement to Reliefs and Costs:**

The complainant is entitled to (i) reimbursement of medical expenses as per **Ext.A3**, (ii) compensation for harassment/mental agony due to the arbitrary repudiation, and (iii) litigation costs.

We determine that Issues (i) to (iv) stand resolved in the complainant's favour. The Opposite Party is found deficient in service and unfair trade practice, resulting in inconvenience, mental distress, hardship, and financial loss to the complainant. Accordingly, the Opposite Party is liable to compensate the complainant.

Hence the **prayer is partly allowed** as follows:

I. The Opposite Party shall pay **₹81,042/-** (Rupees Eighty-One Thousand Forty-Two only) to the complainant towards medical expenses as per **Ext.A3**.

II. The Opposite Party shall pay **₹10,000/-** (Rupees Ten Thousand only) to the complainant towards compensation for mental agony and harassment arising from the deficiency in service and unfair trade practice.

III. The Opposite Party shall pay **₹5,000/-** (Rupees Five Thousand only) to the complainant towards the cost of proceedings.

The opposite party is liable for the fulfilment of the above orders. These orders must be executed within 45 days from the date of receipt of this order. Failure to comply with the payment orders under **Points I and II** will result in an interest rate of 9% per annum from the date of filing the complaint (16.03.2024) until the date of full payment realization.

**Pronounced in the Open Commission on this the 29<sup>th</sup> day of September,**

**2025.**

**Sd/- D.B. Binu, President**  
**Sd/-Shri. V. Ramachandran, Member**  
**Sreevidhia T.N, Member**  
Forwarded/By Order

Assistant Registrar

## **APPENDIX**

### **Complainant's Evidence:**

- Ext.A1 — Copy of the policy schedule issued by the opposite party.
- Ext.A2 — Copy of the discharge summary.
- Ext.A3 — Copies of the medical bills.
- Ext.A4 — Copy of the cashless rejection letter.
- Ext.A5 — Copy of the reply received from the opposite party.

### **Opposite party's Evidence:-**

Date of Despatch

By Hand::

By post::BR/