Date of filing: 21.10.2022
Date of Disposal: 30.10.2025

BEFORE THE KARNATAKA STATE CONSUMR DISPUTES REDRESSAL COMMISSION, BENGALURU

(PRINCIPAL BENCH)

DATED: 30th DAY OF OCTOBER 2025

CORAM: HON'BLE Mr. JUSTICE T.G.SHIVASHANKARE GOWDA – PRESIDENT

and

Mrs. DIVYASHREE M – LADY MEMBER

SC/29/A/2125/2022

BETWEEN:

Oriental Insurance Company Ltd.,
Krishna Prasad Building,
Main road,
Puttur-574201.
Rep. by its Manager/Authorised Signatory.

Present Address:

Oriental Insurance Company Ltd.,
Regional Office: No.44/45,
Leo Shopping Complex,
Residency Cross road,
Bengaluru-25.
Rep. by its Deputy Manager
Sri.Ashok Lenin **..... Appellant/s**

(By Sri.Adarsh Gangal, Advocate)

AND:

1. M.K.Paulose,
   Aged about 63 years,
   S/o late M.K.Varki,

R/at Padadka House,
Shirady post, Puttur taluk,
Dakshina Kannada.

(By Sri.Jayaprakash Rai, Advocate)

2. Raksha Health Insurance TPA Pvt., Ltd.,
No.15/5, Mathura road,
Faridabad-121003.
Rep. by its Manager/Authorized Signatory

3. The Branch Manager
Raksha Health Insurance TPA Pvt., Ltd.,
Krishnaprasad Building, Main road,
Puttur-574201.

4. Raksha Health Insurance TPA Pvt., Ltd.,
No.412, Jindal Center, 4th floor,
100ft road, 4th block, Koramangala,
Bengaluru-34.
Rep. by its Manager/
Authorized Signatory **..... Respondent/s**

(By Dr.Ashwini, Representative of R2 to R4)

ORAL ORDER

(PER: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA, PRESIDENT)

This Appeal is filed U/s.41 of Consumer Protection Act, 2019 (in short CP Act) by Appellant challenging the order dated:04.08.2022 passed in CC/276/2018 on the file of Dakshina Kannada District Consumer Disputes

Redressal Commission (in short the District Commission).

2. The Appellant was OP.4, R1 was the Complainant and R2 to R4 were OPs.1 to 3 before the District Commission. The Rank of the parties shall be referred to as per their status before the District Commission.

3. The Brief facts of the case are that: The Complainant had obtained health insurance policy from OPs since several years. Initially policy was taken for a sum insured of Rs.50,000/- for the period from 23.02.2015 to 22.02.2016. During its renewal, he has increased the sum insured to Rs.1 lakh and obtained the policy for the period from 23.02.2016 to 22.02.2017. Further he renewed the policy from 23.02.2017 to 22.02.2018 and 23.02.2018 to 22.02.2019. 4th renewal was due on 23.02.2019. In the meantime, the Complainant suffered illness and was hospitalized at KMC hospital, Mangaluru on 28.08.2018 as inpatient and has undergone heart surgery. Since policy was having

cashless facility up to Rs.1 lakh, claim was sent by the hospital to Insurance Company. Insurance Company has allowed the cashless facility to the extent of Rs.50,000/- only and repudiated the remaining claim amount of Rs.50,000/- holding as per clause 7.3 of the terms and conditions of the policy, the enhanced sum insured will be applicable only after four continuous renewals. The Complainant has paid remaining amount of Rs.50,000/- and discharged from the hospital and thereafter, he filed the complaint alleging deficiency in service.

4. OPs have opposed the complaint by filing version. It is their contention that, Complainant is entitle for reimbursement of Rs.50,000/- only as the renewed policy enhancing sum insured of Rs.1 lakh has not completed 4th year. Hence as per the terms and conditions of the policy, sum insured of Rs.50,000/- was reimbursed.

5. Before the District Commission, Complainant has filed his affidavit evidence as CW-1 and marked 7 documents as Ex-C1 to C7. On behalf of OPs, Officer of

OP.4 has filed affidavit evidence as RW-2 and marked 38 documents as Ex-R1 to R38.

6. The District Commission after hearing both parties, dismissed the complaint against OPs.1 to 3 and allowed against OP.4 directing to pay a sum of Rs.50,000/- allowing with interest at 5% p.a. from the date of complaint till the date of payment; to pay Rs.10,000/- towards compensation and litigation cost. Aggrieved by the same, Insurance Company has filed this appeal.

7. We have heard the Learned Counsel for OP.4. Learned Counsel for Complainant has not appeared even after affording sufficient time. Hence reply arguments taken as nil. Since complaint against Ops.1 to 3 is dismissed, no need to hear their arguments.

8. Now the point that arise for our consideration is;

Whether the order of District Commission in allowing the complaint is perverse or illegal, does call for interference ?

9. It is the contention of the learned counsel for OP.4 is that original/initial policy was having sum assured of Rs.50,000/- for the year 2015-16. During its renewal, the Complainant has increased the sum insured to Rs.1 lakh for the year 2016-17, 2017-18 & 2018-19. Thus, policy with enhancement of sum assured had completed three years and due for 4th renewal. Only after completion of 4th year, the claim would be settled up to Rs.1 lakh. Hence, the Complainant is entitle for cashless facility only for Rs.50,000/-. To emphasis their contention, they relied on the clause 7.3 of the terms and conditions of the policy, which speaks ***"the enhanced sum insured will be applicable only after four continuous renewals with increased sum insured."***

10. It is their further contention that, as per clause 4.1 of the terms and conditions of the policy, claim towards Coronary Artery Disease is excluded up to 4 years of the policy being in force continuously. Since, the Complainant has undergone heart surgery within 4

years of the policy with increased sum assured, his claim was settled for Rs.50,000/-. The District Commission did not consider these aspects and passed the order which is perverse, illegal and call for interference.

11. To buttress their arguments, they relied upon the judgment of Hon'ble NCDRC in "Dr.Tarunjit Dutta Roy vs. Branch Manager, New India Assurance Co., Ltd.," reported in (2013) 2 CPR 192 (NC).

12. We gave our anxious consideration to the arguments addressed on behalf of OP.4 and perused the materials on record including order of the District Commission.

13. There is no dispute as to the Complainant was having a policy for a sum insured of Rs.50,000/- for the period from 23.02.2015 to 22.02.2016. On 23.02.2016, he renewed the policy by enhancing sum insured to Rs.1 lakh for the period 23.02.2016 to 22.02.2017. Thereafter, policy got renewed for 2nd and 3rd time i.e. for the period from 23.02.2017 to 22.02.2018, 23.02.2018 to 22.02.2019 and due for 4th renewal on

23.02.2019. Before completion of 4th year policy, on 28.08.2018 the Complainant was admitted to KMC hospital, Mangauru and underwent heart surgery and claim was made to OPs for cashless facility of Rs.1 lakh. OP.4 has honored a sum of Rs.50,000/- and remaining Rs.50,000/- has been repudiated referring to the terms and conditions of the policy.

14. Admittedly, renewal of policy with increased sum insured has completed three years and due to renew for 4th year on 23.02.2019. Whereas, during the policy period 23.02.2018 to 22.02.2019, the Complainant was admitted to hospital on 28.08.2018 and taken treatment for his heart ailment i.e. within 4 years of the policy being in force continuously. Both parties are bound by terms and conditions of the policy. Law is settled that insurance is a contract and the terms therein have to be interpreted.

15. Hon'ble NCDRC in Dr.Tarunjit Dutta Roy (supra) referring to the several judgment of Hon'ble Apex Court held that when the claim of this nature

comes interpretation of terms and conditions of the policy has to be made.

16. Ex-R38 is the policy which contains terms and conditions. Clause 4 of the policy terms and conditions deals with 'Exclusions', wherein it refers to the pre-existing disease. There is clear exclusion of "Coronary Artery Disease" in the table. As per clause 4.2 *"Any disease other than those stated in clause 4.3, contracted by the insured person during the first 30 days from the commencement date of the policy except treatment for accidental external injuries."* Clause 4.3 speaks that *"During the period of insurance cover, the expenses on treatment of following ailment/disease/surgeries for specified periods are not payable if contracted and/or manifested during the currency of the policy."* Clause 4.1 speaks that *"Any ailment/disease/injuries/health condition which are pre-existing (treated/untreated/ declared/not declared in the proposal form), when the cover incepts for the first time are excluded upto 4 years of this policy being in force continuously."*

17. It is not the case of the Complainant that by declaring his pre-existing disease policy was taken for the first time with sum insured of Rs.50,000/-. Such being the case, when the policy renewed on 23.02.2016 increasing sum insured to Rs.1 lakh for the first time, his heart ailment become first ailment which is excluded up to 4 years of the policy being in force continuously. In such view of the matter, terms and conditions of the policy makes it very clear that first time ailment in so far as enhanced insurance coverage is excluded for the period of 4 years and therefore, we found error apparent in the judgment of the District Commission.

18. The District Commission has referred to the medical literature as well as modern day stressful life to come to its conclusion. When both parties are bound by terms and conditions of the contract, such literature will not going to help the Complainant. Therefore, such efforts made by the District Commission is beyond the scope of the claim. Hence appeal deserves consideration. In the result, the following:

ORDERS

(i) The Appeal is allowed.

(ii) Impugned order passed against OP.4 is set aside.

(iii) Complaint against OPs.1 to 4 is dismissed.

(iv) Amount in deposit shall be returned to Appellant/OP.4.

(v) Notify copy of this Order to the District Commission and parties.

(T.G.SHIVASHANKARE GOWDA)
PRESIDENT

30/10/25

(DIVYASHREE M)
LADY MEMBER

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