

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
MALAPPURAM

(Present: **Sri. Mohandasan K., President**
Smt.Preethi Sivaraman C., Member
Sri. Mohamed Ismayil C.V., Member)

Date of filing: 19/07/2023

Date of Order: 14/03/2025

C.C.NO.361/2023

T.T.Subramaniyan S/o Parangodan,
Thonnuthodi House, Pottippara,
Naduvath P.o, Wandoor Via,
Malappuram Dist., Pin – 679328.

(By:Adv. O. Priyanka Baiju, Malappuram)

Complainant

Vs.

1. Star Health & Allied Insurance Company
Limited, 4th Floor, Carmel Towers,
Cotton Hill P.o, Vazhuthacaud- 695014,
Trivandrum

2. Sathyanathan .M,
Mankavil House, Kappil P.o,
Malappuram Dist.,
Ph: 9846129251.

(By:Adv. Mohan George, Manjeri)

3. Shyni .K, W/o Sathyanathan.M,
Mankavil House, Kappil P.o,
Malappuram Dist., Ph: 953990658.

(By:Adv. Arun Gopal, Calicut)

Opposite parties

ORDER

By Sri. MOHANDASAN.K, PRESIDENT

Complaint in short is as follows:-

1. The complainant, his wife, children Aswin.T, Arayan.T were subscribed the insurance policy of the opposite party from 2020 October 9 onwards. He had remitted

Rs.14, 989/- towards the premium and renewed the same every year after remitting premium. The complainant submitted that his wife had undergone treatment and for that purpose a claim for his 1, 07,027/- was submitted before the first opposite party and the same had approved by the insurance company. But later the insurance company withdrawn the same stating that the wife of the complainant had consulted doctor in OP during 2018.

2. The complainant submitted he subscribed insurance policy at the instigation of the second opposite party and he had stated the complainant that he can avail insurance benefit up to 4, 00,000/- per year. Hence complainant alleged deficiency in service on the part of opposite parties and prayed compensation of Rs. 10, 00,000/- from the opposite parties. It is submitted while availing the insurance policy the opposite party did not conduct any medical check-up of the complainant or the family members.

3. On admission of the complaint notice was issued to the opposite parties and the opposite parties entered appearance and filed version.

4. The first and third opposite parties filed joint version contenting that Mrs Padmadja, the wife of the complainant had taken a family health optima insurance policy from the branch office of the first opposite party situated in Malappuram on 09/10/2020 covering herself and their children and the same has been renewed up to 08/10/2023 for a sum of Rs.4, 00,000/- vide policy No. P/181312/01/2023/006993. At the time of issuing the policy the complainant was supplied with terms and conditions of the policy.

The terms and conditions of the policy were explained to the complainant and the insured at the time of proposing policy and the same was served to the insured along with the policy schedule. It was stated in the policy schedule that “the insurance under this policy is subject to conditions, clauses, warranties, and exclusions etc., attached “.

5. It is submitted the proposal form is the basis of the insurance contract, on that basis the policy is issued. In the proposal form the wife of the complainant Mrs Padmaja, has specifically declared that she was not suffering from any disease or ailment at the time of submitting the proposal form. The policy is issued according to the terms and conditions only and it is a settled principle that the parties to the insurance contract are bound by the terms and conditions of the policy issued.

6. The opposite party submitted that during the policy period the opposite party had received a request for cashless hospitalization from NIMS hospital, Malappuram stating that wife of the complainant Mrs Padmaja was admitted in the hospital on 25/06/2023 and was provisionally diagnosed with urinary tract infection / cystitis.

7. Based on pre authorization and documents forwarded by the hospital, the first opposite party had initially authorized an amount of Rs. 18,167/- as provisional amount and informed the hospital vide letter dated 26/06/2023. It is submitted that thereafter the hospital has forwarded the copy of discharge summary bills of Rs.1, 17,470/- to the first opposite party. As per the discharge summary, the wife of the complainant was diagnosed with left tubo ovarian mass with abscess, urinary tract infection, type II

diabetes mellitus, lap left salpingo oophorectomy under GA on 02/07/2023. Hence on the available documents and bills the first opposite party has enhanced the amount to Rs.88, 860/- and informed the hospital vide letter dated 06/07/2023. Thus the total amount approved was Rs. 1, 07,027/-.

8. The opposite party submitted that as per condition No. 13 of the terms and conditions of authorization, if the claim is found to be not admissible due to discrepancies in the details provided by the hospital in the pre authorization request form and discharge summary and other documents the company is not liable to make any payment and the amount approved will be withdrawn and the bill will not be settled.

9. The opposite party submitted that they collected records from the hospital and it was found the patient has a history of abnormal uterine bleeding and thereby found that the wife of the complainant was consulted at NIMS hospital, Malappuram dated 02/07/2018 with complaints of bleeding.

10. Hence, the submission of the opposite party is that as per records the patient has been suffering from abnormal uterine bleeding since 2018 which is prior to the inception of the policy. Hence according to the opposite party it is a pre-existing disease and as per the policy it is excluded as per clause No.3 (1) of the policy. It is cited as “the company shall not be liable to make any payment under this policy in respect of any expenses what so ever incurred by the insured person in connection with or in respect of expenses related to the treatment of a pre-existing (PED) and its direct complications shall be

excluded until the expiry of 48 months of continues coverage after the date of inception of the first policy with insurer. Hence the first opposite party had rejected the authorisation for cashless treatment and the same was informed to the complainant and the hospital authority on 06/07/2023. Thereafter discharged from the hospital on 06/07/2023, then the complainant submitted discharge summary, bills and reports for the reimbursement of the medical expenses.

11. The opposite party submitted that the wife of the complainant was with pre-existing disease and the complainant failed to disclose the above history in his proposal form at the time of inception of the first policy which amounts to non-disclosure of material facts.

12. The opposite party denied the averment of complainant that he has no education in health insurance and that he had taken the policy on the assurance given by Sathyanathan, agent of LIC are baseless bereft of truth and are denied. The opposite party submitted the policy was taken by the wife of complainant. The complainant is only a nominee to the said policy. Hence the complainant has no bonafide in filing this complaint. The wife of the complainant had taken the policy through the third opposite party. The policy was taken after fully satisfied with the terms and conditions of the policy and the same is taken on free will.

13. The opposite party submitted the complainant has not suffered any mental agony or hardship from the opposite party as alleged. The complainant is not entitled for any

relief as prayed in the complaint. The first opposite party repudiated the claim as per the terms and conditions of the policy. Hence, there is no deficiency of service or unfair trade practice from the side of opposite parties. So, the complainant is not entitled for any relief and the complaint is liable to be dismissed with cost to the opposite party.

14. The second opposite party filed version contenting that the complaint is not maintainable and the same is liable to be dismissed.

15. The second opposite party submitted that he is not aware of the submissions in the complaint that the wife of the complainant and his children availed star health and allied insurance company policy on 09/10/2020 that the policy premium was Rs. 14,989/- and the same was remitting on every year that claim was submitted before the insurance company for Rs. 107027/- on 26/06/20323 that it was approved by the company that after few minutes it was cancelled that it was due to consulting a doctor in OP during 2018 etc.

16. The opposite party denied the allegation that the agent i.e. the second opposite party approached the complainant and insisted for subscribing insurance policy and thereby subscribed the insurance scheme that assured 4, 00,000/- rupees will be availed through insurance claim etc. The opposite party submitted he is only an insurance agent canvassing the insurance policy and at the time of canvassing, he convincing the subscribers about the terms and conditions and on understanding the terms and conditions they are subscribing in to the policy. The complainant herein subscribed the policy after duly understanding the policy conditions and if the policy holder has violated any condition for that the opposite party is not responsible. It is the responsibility of the insurance company

to pay the insurance benefit to the policy holders. Hence the opposite party herein is unnecessary party in the proceedings.

17. The opposite party admitted that the second opposite party is Mr. Sathyanadthan and the third opposite party is Shyni. K and the first opposite party is star health and allied insurance company limited. But the averments in the complaint that the complainant was ridiculed, sustained mental agony and thereby sustained loss of 10, 00,000/-rupees and the complainant is entitled for the same is baseless and the complaint is not entitled any relief as prayed. The opposite party submitted that he is not aware other facts whether the complainant was undergone medical check-up while subscribing the policy, hence the prayer of the opposite party is to dismiss the complaint with cost to the opposite party.

18. The complainant and opposite parties filed affidavit and documents. The documents of the complainant marked as Ext. A1 to A4 and the document of the opposite party No.1 and 3 marked as Ex.B1 to B5. No document filed for opposite party No.2. Ext. A1 is copy of family healthy optima insurance plan with policy No./181312/01/2021/005384 which is valid from 09/10/2020 to 08/10/2021. Ext. A2 is copy of discharge summary issued from NIMS hospital, Vaniyambalam dated 06/07/2023. Ext. A3 is copy of cashless authorization letter issued by star health and allied insurance company limited dated 26/06/2023. Ext. A4 is copy of letter of rejection and withdrawal of approval given earlier dated 06/07/2023. Ext. B1 is copy of letter issued by star health and allied insurance company to Mrs Padmaja w/o Subramanian dated 07/10/2022. Ext. B2 is copy of proposal form dated 09/08/2020. Ext.B3 is copy of request for cashless hospitalization for health insurance dated 25/06/2023.

Ext.B4 is copy of prescription dated 02/01/2018 issued from NIMS hospital. Ext. B5 is copy of letter of repudiation of claim dated 29/07/2023.

19. Heard complainant and opposite parties, perused affidavit and documents. The following points arise for consideration:-

- 1) Whether there is deficiency in service on the part of opposite party?
- 2) Relief and cost?

Point No.1 & 2

20. The complainant submitted that there is an insurance policy in favour of the complainant, his wife and children which is incepted from 2020 October onwards. The wife of the complainant Smt. Padmaja underwent treatment while the policy was in force and a claim for Rs. 1, 07,027/- was approved by the opposite party. The opposite party initially approved the same but later withdrawn the same. The reason for withdrawal was that the wife of the complainant had consulted a doctor as outpatient during the year 2018. The complainant submitted that the wife of the complainant was not having any ailment to deny the insurance claim contending non-disclosure of pre-existing disease and so claimed compensation from the opposite party to the tune of Rs. 10,00,000/-. The complainant produced Ext. A1 the photo copy of insurance of family health optima plan issued by the first opposite party to show that the policy incepted on 09/10/2020. Ext. A2 shows the complainant admitted in NIMS hospital Wandoor, Vaniyambalam on 26/06/2023 and discharged on 06/07/2023. Ext. A2 further reveals she was undergone LAP LEFT SALPINGO – OOPHERECTOMY under GA on 02/07/2023 before the NIMS hospital. The complainant produced photocopy of discharge bill from the NIMS hospital as part of

discharge summary. Ext.A3 is copy of cashless authorisation letter issued by star health and allied insurance company in favour of NIMS hospital in the name of Smt. Padmaja. Ext.A4 is copy of letter of rejection and withdrawal of approval given earlier which is dated 06/07/2023. The Ext. A4 disclose that the opposite party had approved an amount of Rs. 1,07,027/- on 26/06/2023 for the treatment of the patient Padmaja and it further contended that as per the documents received by the insurance company the patient has been suffering from AUB since 2018 which is prior to inception of the policy. Hence the treatment of the disease / condition is not admissible until the expiry from the date of admission 03/07/2023 after first October 2020.

21. The first opposite party admitted the insurance policy and the submission of insurance claim and thereby approval of Rs.1, 07,027/- as insurance claim. The opposite party contended that they repudiated the claim subsequent to approval due to non-disclosure of pre-existing disease prior to inception of insurance policy. The opposite party produced document Ext. B1 to B4 to substantiate the contention of the opposite party. Ext. B1 includes the terms and conditions of family health optima insurance plan. Ext. B2 is photo copy of common proposal form and Ext. B3 is copy of request for cashless hospitalization for health insurance. The contention of the opposite party is that the insurance was denied due to non-disclosure of pre-existing disease and to prove the same the opposite party produced a photo copy of prescription issued from NIMS hospital dated 02/01/2018. It appears the denial of the insurance policy is on the ground of non-disclosure of pre-existing disease as per Ext. B4. Except Ext.B4 document there is no other document to show that patient Padmaja was undergone treatment before any hospital or the treatment

centre for the complaint. Ext. B4 is a copy of prescription which contains complaint of bleeding. It appears that Smt. Padmaja is aged 42 years, consulted by a physician for complaint of bleeding on 02/01/2018. It can be seen that the patient is a lady, aged 42 years and she was consulted by a doctor with a complaint of bleeding. No further details are available from B4 document. But the fact remains that bleeding issue of a female that too aged only 42 years cannot be treated as an ailment as contended by the opposite party, rather it is a natural biological process of a woman. Ext B4 does not reveal except bleeding issue during menstrual period. It is not expected to disclose the bleeding as a disease while incepting an insurance policy. Since there is no further documents except Ext.B4 to show that the patient was suffering from disease there is no merit in the contention of first opposite party. The Commission finds the consultation as per Ext B4 during the year 2018 is not an ailment to be disclosed while subscribing an insurance policy during 2020 and that cannot be taken as non-disclosure of pre-existing disease.

22. In this complaint the complainant incepted the insurance policy during the year 2020 and the alleged outpatient consultation was in the year 2018. Thereafter no treatment is seen availed by the patient. If the consultation as per Ext. B4 was of serious nature there should be continuous treatment during the period. The complainant subscribed the policy during 2020 and thereafter continuously renewed the policy up to 2023. No document is there to show that the patient underwent treatment during the period. Hence the Commission finds the treatment undergone before the NIMS hospital during this period was not the continues treatment of Ext. B4 document. Hence, the Commission do not find reason to repudiate the claim under the ground of non-disclosure of pre-existing disease

since there was no ailment as alleged to the patient to be disclosed while subscribing the insurance policy. Moreover the opposite party initially approved the insurance claim for cashless treatment and with that expectation the patient was undergone treatment. So the practice of the opposite party amounts deficiency in service as well as unfair trade practice. The complainant is entitled approved insurance benefit of Rs. 1, 07,027/-. Moreover the complainant is entitled compensation for the deficiency in service from the side of first opposite party and thereby caused inconvenience and hardship sustained by the complainant. The opposite parties 2, 3 are only agents of the insurance and so the first opposite party alone is responsible for the deficiency in service on the part of opposite party. The Commission finds Rs. 50,000/- will be reasonable amount towards the compensation on account of deficiency in service of the first opposite party. The first opposite party is also liable to pay cost of Rs. 10,000/- to the complainant.

23. In the light of above facts and circumstances the complaint stands allowed as follows:-

- 1) The first opposite party is directed to pay Rs. 1, 07,027/- (Rupees one lakh seven thousand twenty seven only) as the insurance claim amount to the complainant.
- 2) The first opposite party is directed to pay Rs.50, 000/- (Rupees fifty thousand only) as compensation on account of deficiency in service and thereby caused inconvenience and hardship to the complainant.
- 3) The first opposite party is directed to pay Rs. 10,000/- (Rupees ten thousand only) to the complainant as cost of the proceedings.

The first opposite party shall comply this order within one month from the date of receipt of copy of this order, failing which the complainant is entitled interest at the rate of 12% per annum from the date of this order to till date of payment.

(Dictated to the Confidential Assistant Sri. Haridasan.V.P transcribed and typed by him, corrected by me and pronounced in the open Commission on the 14th day of March, 2025)

Mohandas. K, President

Preethi Sivaraman.C, Member

Mohamed Ismayil.C.V, Member



APPENDIX

Witness examined on the side of the complainant: Nil

Documents marked on the side of the complainant: Ext.A1to A4

Ext.A1: Copy of family healthy optima insurance plan with policy

No./181312/01/2021/005384 which is valid from 09/10/2020 to 08/10/2021.

Ext.A2: Copy of discharge summary issued from NIMS hospital, Vaniyambalam dated 06/07/2023.

Ext A3: Copy of cashless authorization letter issued by star health and allied insurance company limited dated 26/06/2023.

Ext A4: Copy of letter of rejection and withdrawal of approval given earlier dated 06/07/2023.

Witness examined on the side of the opposite party: Nil

Documents marked on the side of the opposite party: Ext. B1 to B5

Ext.B1: Copy of letter issued by star health and allied insurance company to Mrs Padmaja W/o Subramanian dated 07/10/2022.

Ext.B2: Copy of proposal form dated 09/08/2020

Ext.B3: Copy of request for cashless hospitalization for health insurance dated 25/06/2023.

Ext.B4: Copy of prescription dated 02/01/2018 issued from NIMS hospital.

Ext.B5: Copy of letter repudiation of claim dated 29/07/2023.

Mohandas. K, President

Preethi Sivaraman.C, Member

Mohamed Ismayil.C.V, Member