

Vs.

The Branch Manager  
IFFCO Tokio General Ins. Co. Ltd. & Anr.

STATE CONSUMER DISPUTES REDRESSAL COMMISSION UTTARAKHAND,  
DEHRADUN

Date of Admission: 13.07.2018

Date of Final Hearing: 05.05.2025

Date of Pronouncement: 09.05.2025

**SC/5/A/15/21**

Smt. Meera Srivastava W/o Late Sh. Shailesh Kumar Srivastava  
R/o Near Janta Petrol Pump  
Old ITI, Bareilly Road, Haldwani (District Nainital)  
(Through: Sh. Deepak Ahluwalia, Advocate)  
.....Appellant

VERSUS

1. The Branch Manager  
IFFCO Tokio General Insurance Co. Ltd.  
H-1 (B), Durga City, Centre, Nainital Road  
Haldwani (District Nainital)  
(Through: Sh. Suresh Gautam, Advocate)  
.....Respondent No. 1
2. The Branch Manager  
Almora Urban Co-operative Bank Ltd.  
Lalkuan (District Nainital)  
(Through: Sh. Vaibhav Jain, Advocate)  
.....Respondent No. 2

**Coram:**

**Ms. Kumkum Rani,**

**President**

**Mr. C.M. Singh,**

**Member**

**ORDER**

**(Per: Ms. Kumkum Rani, President):**

This appeal has been directed against judgment and order dated 14.11.2014 passed by the learned District Consumer Disputes Redressal Forum, Nainital (hereinafter to be referred as the District Commission) in

Vs.

The Branch Manager

IFFCO Tokio General Ins. Co. Ltd. &amp; Anr.

consumer complaint No. 01 of 2013 styled as Smt. Meera Srivastava vs. The Branch Manager, IFFCO Tokio General Insurance Co. Ltd., wherein and whereby the complaint was dismissed.

2. The facts giving rise to the present appeal, in brief, are as such that the complainant's husband (now deceased) Sh. Shailesh Kumar Srivastava took a self-loan of Rs. 2 Lacs from the opposite party No. 2 and having tie-up with the opposite party No. 1, the opposite party No. 2 asked complainant's husband to get issued an insurance policy from the opposite party No. 1 after depositing premium amount. Upon the instructions of the opposite party No. 2, the complainant's husband deposited the premium amount with the opposite party No. 1 and cover note of the above said insurance policy bearing No. 41539030 / policy No. 51158578 were issued on 15.07.2010 to the husband of the complainant, according to cover note, the said policy was valid up to 14.07.2011. In the said policy, the complainant was shown as nominee of her husband and her name was written in the cover note of the said policy. The complainant's husband started paying the monthly installments regularly to the opposite party No. 2 and it is pertinent to mention that at the time of sanctioning of the said loan amount it was agreed that in case of death of the borrower, the opposite party No. 1 will repay the loan amount to the opposite party No. 2. The complainant's husband died on dated 15.06.2011 and the complainant intimated both the opposite parties about the same and also requested both the opposite parties to settle the above said loan matter among themselves and asked the opposite party No. 2 to issue 'No Objection Certificate' to

Vs.

The Branch Manager

IFFCO Tokio General Ins. Co. Ltd. &amp; Anr.

the complainant. In spite of several requests and after a lapse of long time, the matter was not resolved, moreover, the complainant received claim repudiation letter dated 04.01.2012 from the office of opposite party No. 1 situated at New Delhi containing the futile and wrong reason for repudiation as 'The reason for the death of the deceased is not accidental as he died due to rabies which is not covered under the policy'. That after reading the said letter, the complainant got astonished and when she contacted both the opposite parties about the same, no heed was paid towards the matter. The complainant deposited the entire balance up to date loan amount with the opposite party No. 2. After paying the entire loan outstanding amount to the opposite party No. 2, the complainant sent a notice to the opposite party No. 1 for reimbursement of loan amount, but the opposite parties did not pay the amount Rs. 2 Lacs with interest from 15.06.2011 till the date of actual payment within 15 days of the receipt of the said notice, but the same was not yet paid, hence, there was a deficiency in service on the part of the opposite parties and due to their misdoings, the complainant has not only suffered great mental agony, but also financial losses. Therefore, the complaint was submitted by the complainant before the District Commission, Nainital for the relief mentioned in the bottom of the complaint.

3. The opposite party No. 1 – IFFCO Tokio General Insurance Co. Ltd. has filed its written statement alleging that the deceased – Sh. Shailesh Kumar Srivastava (borrower) husband of the complainant requested for issuance of a 'Individual Personal Accident Policy' and after completion of necessary formalities of the above mentioned Policy Cover Note

Vs.

The Branch Manager

IFFCO Tokio General Ins. Co. Ltd. &amp; Anr.

No. 41539030 / policy No. 51158578 was duly issued by the answering opposite party for the period from 15.07.2010 to 14.07.2011. It is also contended in the pleadings of the written statement by the answering opposite party that the complainant submitted the insurance claim form with the insurance company on 27.07.2011 pertaining to the death of the insured. As the policy in question being individual personal accident policy and it was mandatory to disclose the accident details, cause of death as well as details of medical treatment in the claim form, but the aforesaid details were not disclosed by the complainant apparently for the reason that the insured has not died due to injuries caused by any accident during the period of insurance. To ascertain the cause of death, an investigation was conducted on behalf of the answering opposite party and this fact came to light that the insured has died due to infection spread by rabies virus. Since the complainant failed to show that the insured died due to injuries sustained in an accident during the period of insurance, the insurance company was left with no option but to repudiate the claim vide its letter dated 04.01.2012. It is further stated that the complainant has lodged a false complaint against the answering opposite party and she has failed to establish that the insured – deceased died to injuries caused by an accident during the period of insurance. It is further stated that the claim of the complainant was rightly repudiated and there was no deficiency in service on the part of the answering opposite party, therefore, the answering opposite party is not liable to pay any compensation to the complainant on the basis of such false and frivolous complaint. The complaint is liable to be dismissed with cost.

Vs.

The Branch Manager

IFFCO Tokio General Ins. Co. Ltd. &amp; Anr.

4. The opposite party No. 2 – Almora Urban Co-operative Bank Ltd. has also submitted its written statement stating that the answering opposite party have falsely and wrongly implicated in the proceedings only with intention to harm and harass the answering opposite party and its officials to cause unlawful damages to ruin the public fund, for which the answering opposite party is entitled to receive special damages from the complainant. It is further stated that the answering opposite party was also made a party in the complaint by writing false and baseless fact to harm the answering opposite party. It is further stated that the impugned policy was issued under the head “Personal Accident Insurance Policy” which provides coverage exclusively for specific bodily injuries directly and solely from accident, i.e. Rail, Road, Air Accident, Injury due to any collision /fall, injury due to bursting of gas cylinder, snake bite, Frost bite, Burn injury, Drowning, Poisoning etc. Thus, the death cause due to infection does not come within the purview of accident. Therefore, the complainant is false and based on fabourious grounds and liable to be dismissed.

5. The District Commission after hearing both the parties and taking into consideration the pleadings and evidence available on record, passed the impugned judgment and order on dated 14.11.2014 and dismissed the consumer complaint.

6. On having been aggrieved by the aforesaid judgment and order of the District Commission, the complainant has submitted the present appeal as appellant.

7. Learned counsel Sh. Deepak Ahluwalia for the appellant, learned counsel Sh. Suresh Gautam for respondent No. 1 and learned counsel Sh. Vaibhav Jain for respondent No. 2 have appeared.

8. We have heard learned counsel for the parties and perused the material available on record.

9. It is an admitted fact that the husband of the appellant – complainant Sh. Shailesh Kumar Srivastava (now deceased) took a self-loan of Rs. 2 Lacs from the respondent No. 2 – opposite party No. 2 and having tie-up with opposite party No. 1, the respondent No. 2 asked the appellant's husband to get issued an insurance policy from the respondent No. 1 after depositing premium amount. It is also established on record that thereafter upon the instructions of the respondent No. 2, the husband of the appellant deposited the premium amount with the respondent No. 1 and cover note of the above said insurance policy bearing No. 51158578 was issued on dated 15.07.2010 to the appellant's husband (deceased). It is not disputed that the said insurance policy was valid from 15.07.2010 to 14.07.2011. It is also not disputed that during the currency of the said insurance policy, the appellant's husband died on dated 15.06.2011. Annexure-1 Individual Personal Accident Policy is available on record issued to the husband of the appellant for a sum insured of Rs. 2 Lacs valid upto 14.07.2011. The Personal Accident Insurance Claim Form (paper No. 31 Annexure-2 has also transpired that the appellant has submitted her claim form to the office of the respondent No. 1 – Insurance Company on dated 27.07.2011. Repudiation letter dated 04.01.2012 (Paper No. 33) has also revealed that

Vs.

The Branch Manager

IFFCO Tokio General Ins. Co. Ltd. &amp; Anr.

the claim of the appellant was repudiated stating that the reason for the death of the deceased is not accidental as he died due to rabies which is not covered under the policy. In the light of the above, the insurance company informed the appellant – complainant that the claim is not tenable and the insurance company is closing the case. It is pertinent to mention that in the repudiation letter nothing is mentioned therein that **under which condition of the insurance policy**, the death due to rabies is not covered.

10. We have also perused the terms and conditions of the insurance policy (paper Nos. 25 to 30). In the definition of “Injury” under the heading of Injury at para No. 10, it is provided that “It shall mean accidental bodily injury solely and directly caused by external, violent and visible cause.” This definition includes accidental bodily injury resulting from exposure to element of the cause.” This definition does not exclude death caused by rabies and it does not come within the definition of accidentally injury. Under the heading General Exclusions, there are some clauses under which the Insurance Company will not pay any compensation, which are as under:

(1) As consequences of war, invasion, act of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection, mutiny, military or usurped power, confiscation, seizure, capture, restraint, nationalization, civil commotion or loot or pillage in connection herewith.

Vs.

The Branch Manager

IFFCO Tokio General Ins. Co. Ltd. &amp; Anr.

(2) Directly or indirectly caused by contributed to  
by or arising from:

(a) Ionizing radiation or contamination by  
radioactivity from any nuclear fuel or from any  
nuclear waste from the combustion of nuclear fuel.  
For the purpose of this exclusion, combustion shall  
include any self sustaining process of nuclear  
fission.

(b) The radioactive, toxic, explosive or the  
hazardous of any nuclear assembly or nuclear  
component.

11. The General Exclusions have also not transpired that the death due to rabies are excluded the above heading. So we are of the considered view that the Insurance Company has wrongly and incorrectly repudiated the claim of the appellant – complainant. The insurance company has committed deficiency in service and by repudiating the claim of the appellant. Therefore, we are of the considered opinion that the appellant – complainant's claim case is covered under the policy terms and conditions. So the appellant is entitled to get the insured amount of Rs. 2 Lacs from the respondent No. 1 – Insurance Company. So far as the compensation for mental agony and physical and financial loss is concerned, we are of the considered view that the appellant is also entitled to get compensation of Rs. 45,000/- in this respect alongwith Rs. 5,000/- towards litigation charges. Accordingly, the appeal is liable to be allowed. The impugned judgment and order dated 14.11.2014 passed by the District Commission,

Vs.

The Branch Manager  
IFFCO Tokio General Ins. Co. Ltd. & Anr.

Nainital is liable to be set aside and the consumer complaint is liable to be allowed.

12. Accordingly, the appeal is allowed. Impugned judgment and order dated 14.11.2014 passed by the District Commission, Nainital is set aside and the consumer complaint is hereby allowed. Respondent No. 1 – Insurance Company is directed to pay Rs. 2 Lacs to the appellant as insured amount clubbed with Rs. 45,000/- as compensation for mental agony, physical and financial loss. The respondent No. 1 – Insurance Company is also directed to pay Rs. 5,000/- towards litigation charges to the appellant within one month from the date of this judgment and order, failing which the appellant shall be entitled to get simple interest @ 7% per annum from the date of this judgment and order to its actual payment. No order as to costs of the appeal.

13. A copy of this Order be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986 / 2019. The Order be uploaded forthwith on the website of the Commission for the perusal of the parties. A copy of this Order be sent to the concerned District Commission for record and necessary information.

14. File be consigned to record room along with a copy of this Order.

**(Ms. Kumkum Rani)**  
**President**

**(Mr. C.M. Singh)**  
**Member**

Pronounced on: 09.05.2025