

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
PUNJAB, CHANDIGARH.**

First Appeal No. 262 of 2023

Date of institution : 17.04.2023

Reserved on : 17.02.2026

Date of Decision : 09.03.2026

1. Bajaj Allianz General Insurance Company Limited, Branch Office at SCO 31, K.K. Tower, Distt. Shopping Complex, Amritsar through its Branch Manager/Authorized Signatory.

2. Bajaj Allianz General Insurance Company Limited, Head Office G.E. Palace, Airport Road, Yerawada, Pune 411006 through its Director/Managing Director/Authorized Signatory.

3. Bajaj Allianz General Insurance Company Limited, Policy issuing office at 2nd Floor, 5-B Block, Improvement Trust Complex, Patel Chowk, Pathankot 145 001 through its Branch Manager/Authorized Signatory.

PRESENT ADDRESS

Bajaj Allianz General Insurance Company Limited, SCO No. 156-159, Second Floor, Sector 9-C, Chandigarh through its Assistant Manager, Legal Saurav Khullar.

...Appellants/Opposite Parties No.1 to 3

Versus

1. R.P. Enterprises, through its Sole Proprietor Ravneet Kaur, Shop No. 12, Kahlon Market, Village Nichale Jalan, Tehsil Baba Bakala, District Amritsar 96464-19111

...Respondent No.1/Complainant

2. IDBI Bank Limited having office at Royal Institute, Jaito Sarja, Tehsil Batala, Distt. Gurdaspur.

...Performa Respondent

**First Appeal under Section 41 of the
Consumer Protection Act, 2019 against the
order dated 24.02.2023 passed by the District
Consumer Disputes Redressal Commission,
Amritsar in C.C. No. 875 of 2019.**

Quorum:-

**Ms. Simarjot Kaur, Presiding Member
Mr. Vishav Kant Garg, Member**

- 1) Whether Reporters of the Newspapers may be allowed to see the Judgment? **Yes/No**
- 2) To be referred to the Reporters or not? **Yes/No**
- 3) Whether judgment should be reported in the Digest? **Yes/No**

Present:-

For the appellants : Sh. P.H.S. Pannu, Advocate
For respondent No.1 : Sh. Yaseen Sethi, Advocate
(Through VC)
For respondent No.2 : Service dispensed with vide
Order dated 19.03.2024

VISHAV KANT GARG, MEMBER :

Appellants/Opposite Parties No.1 to 3 i.e. Bajaj Allianz General Insurance Limited, have filed the present Appeal **through its Branch Manager** to challenge the impugned order dated 24.02.2023 passed by the District Consumer Disputes Redressal Commission, Amritsar (in short, "the District Commission"), whereby the Complaint filed by the **Respondent/Complainant-R.P. Enterprises** had been partly allowed.

2. It would be apposite to mention here that hereinafter the parties will be referred, as were arrayed before the District Commission.

3. Briefly, the facts of the case as made out by the Respondent No.1/Complainant in the Complaint filed before the District Commission are that the Complainant was running Paint Shop in the name of R.P. Enterprises and had purchased Standard Fire and Special Perils Insurance Policy No. OG-19-1211-4001-00002564 from OPs No.1 to 3. In the said policy, the stock of Paint, FFF, AC, Computer, P&M etc. had been insured for a total sum of Rs.11,04,000/-. The Complainant had purchased the said policy through OP No.4-IDBI Bank Ltd. Unfortunately, in the intervening

night of 11/12.08.2019, fire had occurred in the shop of the Complainant, wherein stock and other materials like AC, Computer P&M etc. got burnt. FIR was lodged in this regard. Insurance Company i.e. Bajaj Allianz General Insurance Co. Ltd. was also informed about the incident of fire and the claim was lodged. Surveyor was appointed and on his report, the OPs No. 1 to 3 had illegally transferred Rs.4,95,000/- as full & final settlement amount on 25.09.2019 in the account of the Complainant.

4. The Complainant alleged that stock & other articles to the tune of Rs.11,04,000/- had been insured whereas the OPs No.1&3 wrongly and illegally settled the claim to the tune of Rs.4,95,000/-. It was alleged that the Surveyor had assessed the loss to the tune of Rs.7,91,975/- but had wrongly deducted the amount on baseless accounts, without providing any justification of the same. The Complainant was entitled to receive the full insured amount and not the amount paid by OPs No.1 to 3.

5. Stating the act of the opposite parties to be a case of '**deficiency in service**' and '**unfair trade practice**', it was prayed in the Complaint that the OPs be directed to make the insurance claim of Rs.6,09,000/- alongwith interest @ 18% p.a. from the date of entitlement till realization. Rs.1,00,000/- be demanded as compensation on account of harassment suffered at the hands of the OPs and Rs.20,000/- be prayed for as litigation expenses.

6. Upon issuance of notice in the Complaint, the Appellants/ OPs No.1 to 3 had appeared and had filed written statement whereas none had appeared on behalf of OP No.4 and was proceeded against ex-parte. OPs No.1 to 3 in their written statement had taken preliminary objections that the Complainant had no cause of action to file the Complaint as the settlement amount had already been paid to the Complainant. The Complainant had levelled false and baseless allegations. On merits, it was

pleaded that on receipt of information about fire incident, Mr. Manoj Kumar, IRDA approved Surveyor & Loss Assessor had been appointed. Said Surveyor had submitted his report dated 16.09.2019 and had assessed the loss of Rs.4,95,193/- in the case of the Complainant. Intimation regarding the same was given to the Complainant. The Complainant had given his consent to the same and had signed the discharge voucher in this regard. An amount of Rs.4,95,000/- was transferred in the A/c of the Complainant on 26.09.2019. As the claim had been fully settled, discharge voucher was signed and settled amount was paid, therefore, the Complainant had no cause of action to raise such grievance at this stage. The Complainant had wrongly and illegally approached the District Commission. There was no merit in the present Complaint and the same be dismissed being without any merit.

7. After considering the contents of the Complaint and the reply thereof filed by the Opposite Parties as well as on hearing the oral arguments raised on behalf of both the sides, the Complaint filed by the Complainant was partly allowed by the District Commission vide order dated 24.02.2023 The relevant portion of said order as mentioned in Para-13 is reproduced as under:

“13. In view of the above discussion, we partly allow the complaint and the opposite parties No. 1 to 3 are directed to pay the remaining claim amount of Rs.2,96,782/- alongwith interest @ 9% p.a. from the date of filing of the complaint till its realization. As the complainant has suffered a lot of harassment when the opposite parties have not disbursed the remaining claim amount and to file the instant complaint by hiring an Advocate, as such the opposite parties No.1 to 3 are also directed to pay compensation of Rs.5000/- and litigation expenses of Rs.3000/- to the complainant. No case is made out against opposite party No.4, as such complaint against opposite party No. 4 stands dismissed. Compliance of this order be made within 30 days from the date of receipt of copy of this order; failing which complainant

shall be entitled to get the order executed through the indulgence of this Commission...”

8. The aforesaid order dated 24.02.2023 passed by the District Commission has been challenged by the **Appellants/OPs No.1 to 3** by way of filing the present Appeal by raising a number of arguments.

9. **Mr. P.H.S. Pannu, Advocate, learned Counsel for the Appellants** has submitted that the District Commission had ignored the Surveyor Report as well as terms and conditions of the policy. The Surveyor in his report had given the detailed explanation along with Annexure-1A while assessing the legitimate loss suffered by the Complainant in the fire incident. Intimation regarding assessment of the loss to the tune of Rs.4,95,193/- had been given to the Complainant, which he had accepted and had signed the discharge voucher. Thereafter immediately the amount had been credited in his account. While signing the consent, the Complainant had neither protested nor intimated that he was not satisfied with the said settlement. The Complaint had been filed by the Complainant with the motive to extract more money from the OPs No.1 to 3, without giving any justification how he was eligible for the same. Terms and conditions of the Insurance Policy were binding upon both the sides and the Appellants had decided the claim relying upon the terms and conditions of the policy with the consent of the Complainant. Neither in the consent letter nor in the Complaint, the Complainant had alleged that he had signed the said consent voucher under any influence or coercion of the Insurance Company. The District Commission had not thoroughly discussed the report of the Surveyor and has allowed the remaining claim on the basis of assumption and presumptions. In Annexure 1A the Surveyor had given detailed report regarding the deductions made, while assessing the claim. The Surveyor, being an independent IRDA licensed

person was fully competent to assess the insurance claim. The OPs being satisfied with the assessment of the Surveyor and with the consent of the Complainant had approved the claim. Said due amount was remitted in the account of the Complainant. Therefore, the observations of the District Commission were not based on proper appreciation of the factual position.

10. On the other hand, **Sh. Yaseen Sethi, Advocate** learned Counsel for the Respondent No.1 has appeared through VC and submitted that the Complainant had produced all the relevant documents and on the basis of the same Surveyor had assessed the loss to the tune of Rs.7,91,975/-, whereas thereafter he had illegally and wrongly made the deductions and recommended the net loss to the tune of Rs.4,95,193/-. Surveyor himself had admitted in his report that extensive fire broke out in the premises, which damaged the stock/articles at large scale. The Hon'ble Supreme Court in number of judgments has held that Surveyor Report is not final and the Insured is always entitled to claim the genuine loss. No explanation has been given while reducing the claimed amount. The District Commission in its order had rightly appreciated all the grievances and on the basis of settled law had passed a well-reasoned order. No basis had been given by the Appellants in the Appeal to set aside the well-reasoned order.

11. We have heard the oral arguments of the learned Counsel for the parties and have also carefully perused the impugned order passed by the District Commission, written arguments submitted by the parties and all the relevant documents available on the file. We have also gone through the judgments cited by both the parties in support of their contentions.

12. It is not disputed that the stock and articles of the Complainant's shop had been insured with OPs No. 1 to 3. Total insured

value of the articles in the shop was Rs.11,04,000/-. Further undisputed fact between the parties is that in the intervening night of 11/12.08.2019, fire had occurred and most of the articles were damaged in the said incident. Mr. Manoj Kumar, Surveyor was appointed, who primarily had assessed the loss to the tune of Rs.7,91,975/- but after applying deductions, finally had assessed the loss of Rs.4,95,193/-. The OPs No.1 to 3 duly satisfied with the said assessment, had offered Rs.4,95,000/- to the Complainant. Later after obtaining his consent, had transferred the said amount in the account of the Complainant.

13. The Complainant being dissatisfied with the said settlement, had agitated the same by filing the Complaint before the District Commission. OPs No.1 to 3 had contested the said action of the Complainant on the ground that once the Complainant had accepted the settled amount and signed the discharge voucher, he had no right to file the Complaint. He had never raised any grievance/dissatisfaction with the said payment. Subsequently, he had no right to challenge the same at a later stage. The District Commission while observing that once the Surveyor had himself assessed the loss to the tune of Rs.7,91,975/-, then making payment of Rs.4,95,193/- after deducting the amount on different accounts was not justified action on the part of OPs No.1 to 3.

14. Now the issue for consideration in the present case is as to whether the OPs No.1 to 3 had rightly settled the claim of the Complainant or not?

15. To examine the issue, how the Surveyor had assessed the loss to the tune of Rs.4,95,193/-, we have perused the Survey Report alongwith Annexure 1A i.e. the basis of Assessment of Loss. Firstly, in the said assessment the Surveyor had deducted the amount @ 25% on account of slow moving/dead stocks, variation of rate i.e. Rs.1,85,744/-.

Thereafter, Rs.5,000/- had been deducted on account of Salvage. After deducting the said amounts, the Surveyor had reached to the value of Rs.5,52,231/-. Thereafter, 10% deductions had been made on account of non-production of the records/books relating to the stock. Said deductions were justified in the present circumstances because before claiming the said amounts, it was the duty of the Complainant to maintain and produce the proper records of the articles showing entries of the same in the books of stock/accounts. Thereafter, the Surveyor had made some deductions on account of various fixtures, which were lying in the shop. The Surveyor had made deductions in the value of these fixtures to the tune of 50%. As these fixtures were under use since long, therefore, 50% deductions in the value of the same had rightly been made. Thereafter some other deductions had been made by the Surveyor and reasons of the same had been given. Therefore, assessment of the Surveyor is found justified. In such circumstances, the allegations of the Respondent No.1 that no details of the deduction had been provided by the Surveyor is against the record. It was clearly mentioned by the Surveyor that all the relevant records regarding the loss claimed had not been provided by the Complainant. The Complainant had given the consent to the said finally assessed amount of Rs. 4,95,193/- and had also signed the discharge voucher without any remarks, while accepted the said settled amount. Further he had not made such contentions in the Complaint that he was forced to give consent under any influence etc. Therefore, the argument of the Counsel for Respondent No.1 is not justified that Surveyor's Report is not the last and final word. Said law is applicable only in the circumstances, where the Complainant is able to prove that he was forced to sign the settlement. In the present case no such reasoning is available. While accepting the

claim, the Complainant had given his consent. The contents of the same are as under:-

“CONSENT TO ACCEPTANCE OF ASSESSMENT

*With reference to claim to stock of paint and other related materials occurred on 11/12 August 2019 due to fire, I/We confirm that, based on the inspection of loss and the documents provided by us, the surveyor has assessed and adjusted the loss at Rs.495,193/- (Rs. Four Lac Ninety Five Thousands One Hundred and Ninety Three only). **The basis for arriving upon the assessed loss has been explained to me in accordance with the terms and conditions of the insurance policy and the final liability will be taken up by Bajaj Allianz General Insurance Company Limited.***

I/We have had a full opportunity to review the explanation of the assessment provided. I/We further understand that this consent agreement gives me the opportunity to either consent or reject to the assessment.

*I/We warranted that I/we have read this consent that I/we have had adequate opportunity for review and consultation and I/we fully understand the consents thereof and the legal significance of consenting or objecting to the assessment. **I/We understand that by checking appropriately, signing and returning this form, I/we make this decision voluntarily in the exercise of my own free will, after being given and adequate opportunity to consider the issue.***

I/We further declare/admit and acknowledge that it is on the basis of the representations made by me here in that the insurance company is agreeing to settle my claim on the basis of terms and conditions of insurance policy.

I/We declare and undertake that I/we have understood, agree with and accept the basis/value of and settlement and adjustment and that the amount of Rs.495,193/- (Rs. Four Lac Ninety Five Thousands One Hundred and Ninety Three only) the correct settled amount of the whole loss/sum that is receivable by me under the insurance policy # OG-19-1211-4001-00002564 (21.08.2018 to 20.08.2019) and that my aforesaid adequate acceptance of the assessment is binding upon me as against the insurers Bajaj Allianz General Insurance Co. Ltd. also.”

16. Reading of the said Consent clearly reveals that the Complainant had duly been provided opportunity to either give his consent or reject the said settlement. He had specifically mentioned in the said acceptance that he had voluntarily given his willingness to accept the said

settlement. Nowhere in the said consent, it is mentioned that he was forced to sign the same or he had faced any financial hardship in running his business and he was not having any option except to settle the claim for the said amount. Said consent had been written by the Complainant on his own letter/page. It was not obtained by the Appellants on any stereotyped proforma. Said settled amount had been transferred in the account of the Complainant on 26.09.2019. Immediately thereafter the Complainant had filed the Complaint before the District Commission with the ulterior motive to extract more amount from the OPs.

17. There was no justification given in the Complaint, how the Complainant was entitled for more amount and on what account the assessment of the Surveyor was not appropriate. As the Complainant has not been able to prove his allegations that he was forced for reaching settlement with the OPs, therefore, the judgment cited by the Respondent No.1/Complainant in support of his contention is not applicable in the present case. There is no evidence on record, which proves that the settlement reached between the parties was under coercion. It has been specifically held by the Hon'ble Supreme Court in II(1999) CPJ 10 (SC) **"United India Insurance versus Ajmer Singh Cotton & General Mills & Ors."** *that in case discharge voucher has been executed by the Consumer, he is not deprived from preferring the claim with respect to deficiency in service but he has to prove that the discharge voucher was obtained from him by threat, mis-representation and undue influence.* Same view was followed by the Hon'ble National Commission in Consumer Case No. 36 of 2014 **"M/s Garg Acrylics Ltd. versus M/s United India Insurance Co. Ltd."** decided on 16.12.2014 wherein it was held that once the payment has been received without any protest then the complainant could not re-agitate the matter and re-open the claim. Therefore, it is clear that for

claiming the more amount from the Insurance Company instead of settlement amount, the Complainant had to first prove on record that he had accepted said settlement under force or coercion and he had no other option. No such fact and allegations had been proved in the present case. The District Commission has not thoroughly considered all these facts and has partly allowed the Complaint of the Complainant by relying upon the law, which is not applicable in the present circumstances.

18. Keeping in view the aforesaid observations and documents available on the file, we find force in the arguments raised by the Counsel for the Appellants that the Complainant is not entitled for enhanced claimed amount when once he had received the settled amount under his consent.

19. Accordingly, we are of the view that the order passed by the District Commission was not based on proper appreciation of the facts and circumstances. There is sufficient material on record to set-aside the impugned order. Therefore, we may deem it appropriate to set-aside the impugned order passed by the District Commission. **Accordingly, the present Appeal is allowed and the impugned order dated 24.02.2023 passed by the District Commission, Amritsar is set-aside.** Consequently, the Complaint filed by the Complainant is dismissed for the reasons referred above.

20. Since the main case has been disposed off, so all the pending Miscellaneous Applications, if any, are accordingly disposed off.

21. The Appellants had deposited a sum of Rs.25,000/- at the time of filing of the Appeal and Rs.1,73,243/- in compliance of the order dated 19.04.2023. Said amounts, along with interest which has accrued thereon, if any, shall be remitted by the Registry to the Appellants, as per practice.

22. The Appeal could not be decided within the statutory period due to heavy pendency of Court Cases.

**(SIMARJOT KAUR)
PRESIDING MEMBER**

**(VISHAV KANT GARG)
MEMBER**

March 09, 2026.
as