

**Convenient Shopping Centre, Saini Enclave, DELHI -110092
DELHI EAST**

**Complaint Case No. CC/8/2021
(Date of Filing : 23 Dec 2020)**

1. MAHESH CHAND JAIN

R/O 4/2695, GALI NO.5, BIHARI COLONY, SHAHDARA,
DELHI-32

.....Complainant(s)

Versus

1. BANK OF BARODA

E-5/112, KRISHANA NAGAR, DELHI-51

.....Opp.Party(s)

BEFORE:

**SUKHVIR SINGH MALHOTRA PRESIDENT
RAVI KUMAR MEMBER
MS. RASHMI BANSAL MEMBER**

PRESENT:

Dated : 08 Nov 2023

Final Order / Judgement

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION (EAST)

GOVT. OF NCT OF DELHI

CONVENIENT SHOPPING CENTRE, FIRST FLOOR,

SAINI ENCLAVE, DELHI – 110 092

C.C. No.8 of 2021

MAHESH CHAND JAIN

S/O LATE. SH. ROOP CHAND JAIN

R/O 4/2695, GALI NO.5,

BIHARI COLONY, SHAHDARA

DELHI – 110032

....Complainant

Versus

BANK OF BARODA,

THROUGH ITS BRANCH MANAGER,

E-5, 112, KRISHNA NAGAR,

DELHI – 110051

.....OP1

NIVA BUPA HEALTH INSURANCE COMPANY LIMITED

(FORMERLY KNOWS AS MAX BUPA HEALTH
INSURANCE CO. LTD.) AND OTHERS

THROUGH ITS DIRECTORS,

HAVING CORPORATE OFFICE AT:

B-1/i-2, MOHAN COOPERATIVE INDUSTRIAL ESTATE,

MATHURA ROAD,

NEW DELHI – 110044

.....OP2

MAX SMART SUPER SPECIALITY HOSPITAL

THROUGH ITS DIRECTORS,

HAVING REGISTERED OFFICE AT:

PRESS ENCLAVE ROAD, SAKET INSTITUTIONAL
AREA,

MANDIR MARG, SAKET,

DELHI - 110017

.....OP3

Date of Institution : 23.12.2020
Judgment Reserved on : 08.10.2023
Judgment Passed on : 08.11.2023

QUORUM:

Sh. S.S. Malhotra (President)
Ms. Rashmi Bansal (Member)
Sh. Ravi Kumar (Member)

Order By: Shri Ravi Kumar (Member)

JUDGMENT

The Complainant has alleged deficiency in service on the part of OPs in settling his medical expenses partly despite of his holding valid medical insurance policy.

1. The Complainant has contended in his complaint that he is account holder of OP1 having account number 34930100005018 and he availed Group Medclaim Policy from OP2 bearing No.00237700201901 for the period from 27.03.2020 to 26.03.2021 and certificate No.12001151377 and No.12001151378 were issued to him and his wife Smt. Urmila Jain for insured amount of Rs.5,00,000/-.
2. On 20.06.2020 the Complainant was diagnosed with COVID-19 and was admitted in the OP3 Hospital and he was discharged on 28.06.2020 and a bill of Rs.2,76,507/- was raised. The OP2 had denied cashless treatment and on account of the same the Complainant had to make the payment to the Hospital of Rs.2,71,507/- after discount of Rs.5000/-. Thereafter the Complainant submitted claim papers before OP2 who after examining the same sanctioned only Rs.94,280/- as against the claim of Rs.2,71,507/- on 13.10.2020 citing the reason that the claim was not valid and bills were exaggerated. The Complainant thereafter pursued the matter from the balance amount and on getting no response, he has filed the present complaint wherein he has made the following prayers:
 - To refund Rs. 1,77,227/- (Rupees One Lac Seventy-Seven Thousand Two Hundred Twenty-Seven only) to the complainant with interest @18% p.a. from the date of intimation of claim and till the date of realization of the payment,
 - To pay a sum of Rs 50,000/- to the complainant for causing undue mental and physical pain, agony, harassment,
 - To pay Rs. 50,000/- on account of the costs of the present complaint,
 - To pass any such other order(s) as the Hon'ble Commission deems fit and proper in the facts and circumstances of the present case, in favour of the complainant and against the OPs.
3. Notice was issued to OPs.
4. OP1 which is Bank of Baroda has filed its Reply denying the contentions raised by the Complainant and has stated that they are only a proposer of the Insurance Company (OP2) and the premium amount was paid directly by the Complainant to OP2 and as regards the claim settlement is concerned the same is between the Complainant and OP2.
5. OP2 which is the Insurance Company has filed its reply denying the contentions raised against him in the complaint. OP2 has stated that they had acted in accordance with the GI Council Covid-19 Guidelines of NABH accredited Hospital in Metro Cities and approved amount has been paid to the Complainant and have also stated that despite of these

guidelines the Hospital i.e. OP3 has charged exaggerated amount from the Complainant. As per the NABH accredited Hospital the amount payable was as follows:

	Moderate sickness	Severe sickness	Very severe sickness
Category of hospital	ISOLATION BEDS	ICU without need for ventilator	ICU with
NABH Accredited Hospitals(including entry level)	10,000/- (including cost of PPE Rs. 1200/-)	15,000/- (including cost of PPE Rs.2000/-)	18,000/- (including cost of PPE Rs.2000/-)
NON-NABH Accredited Hospitals	8,000/-(including cost of PPE Rs. 1200/-)	13,000/- (including cost of PPE Rs.2000/-)	15,000/- (including cost of PPE Rs.2000/-)

6. The GI Council in discussion with Expert Medical Professionals employed by Member Insurance Companies had brought a schedule of rates for Covid-19 claims and Insurance Companies were to be guided by the treatment protocols as prescribed by ICMR. OP2 is not disputing issuance of Medclaim Policy to the Complainant and has stated that upon receipt of the claim papers from the Complainant they sought certain information from the Complainant which was provided and after receiving the same they examined the claim and approved the same in accordance with the guidelines of GI Council in respect of Covid-19 treatment.
7. OP2 has also stated in their reply that they came to know from previous medical records of the wife of the Complainant that she was suffering from Rheumatoid Arthritis and Post Hysterectomy about 8-10 years back and these facts were not revealed at the time of inception of the policy and therefore they issued a Notice of cancellation of the policy to the Complainant also.
8. OP3 which is the Hospital has filed its reply stating that the complaint is bad on account of mis-joinder of parties and they have no role to play with regard to settlement of claim by the OP2 and they had accorded medical treatment to the Complainant as per the protocol and he was discharged from their hospital after the treatment and they have charged as per the prescribed rates.
9. Complainant has filed replication to the reply of OP1, OP2 and OP3 respectively denying their contents and has reiterated his complaint.
10. Complainant has filed his evidence by way of affidavit wherein he has marked the following documents as exhibits:
 - The OP2 has listed the OP3 in company's network hospital list i.e. in the approved list of hospitals where cashless claim settlement facility against the hospitalization can be availed. The copy of said list is EX-CW1/1.
 - The copy of the advertisement by OP2 is EX-CW1/2 (Colly).

- The copy of the certificate of insurance along with payment receipt is EX-CW1/3 (Colly).
- The copy of the discharge summary and summary of bills issued by OP3 to deponent is EX-CW1/4.
- The copy of payment denial/ partial payment letter against the said claim issued by OP2 to deponent is EX-CW1/5.
- The copy of legal notice along with the postal receipts and tracking report are EX-CW1/6 (Colly).
- The copy of circular dated 13.01.2021 issued by the GI Councils is EX-CW1/7 and copy of other various circulars issued by the GI Council reiterating the same are EX-CW1/8.

11. OP1 has filed its evidence by way of affidavit.

12. OP2 has filed its evidence by way of affidavit wherein it has marked following documents as exhibits:

- The copy of authorization letter is exhibited as EX-RW1/A.
- The copy of the GI Council guidelines in respect of Covid-19 charges is exhibited as EX-RW1/B.
- The copy of the Certificate of Insurance is exhibited as EX-RW1/C.
- A copy of claim form along with other medical documents and lab report is exhibited as EX-RW1/D (Colly).
- The copy of the investigation report is exhibited as EX-RW1/D.
- The copy of the missing info letter along with its reply is exhibited as EX-RW1/E (Colly).
- The copy of the settlement letter is exhibited as EX-RW1/F.
- The copy of the prescription of OPD record of V.M.M.C. and Safdarjung Hospital along with notice of cancellation of policy is exhibited as EX-RW1/G (Colly).

13. OP3 has also filed its evidence by way of affidavit wherein it has marked the following documents as exhibits:

- A list of Covid Patient's admitted on 20/6/2020 in the Hospital as Exb.OP3/W1/A (colly).
- Copy of Face Sheet, Admission Request Form along with Registration Form and undertaking for Cashless facility for Medical Insurance/TPA Policy Holders pertaining to the Patient as Exb.- OP3/W1/B(Colly).
- Copy of Order bearing No.-52/DGHS/ PH-24-30 IV/COVID-19/2020/prsecyhw/14450-14649 dated 20/06/2020 issued by DGHS and Circular bearing No.- NHC/2020/Pt-VIII F.23/Misc/COVID-19/DGHS/ (A)/5732-5739 dated 20.06.2020 as Exb.-OP3/W1/C (Colly).

14. This Commission has heard the arguments of both sides and has perused the records.

It is not in dispute that the Complainant was having Group Mediciam Insurance bearing Policy No.00237700201901 from OP2 and was issued Certificate No.12001151377 to the Complainant covering the period from 27.03.2020 to 26.03.2021 for insured amount of Rs.5,00,000/-. On 20.06.2020 Complainant was detected with Covid-19 and was admitted in the OP3 Hospital where he remained upto 28.06.2020 and a bill of Rs.2,76,507/- was raised and after getting a discount of

Rs.5000/- Complainant paid Rs.2,71,507/- from his own sources as the cashless treatment was denied to him by OP2.

15. Upon discharge from the hospital he filed claim papers before OP2 for an amount of Rs.2,71,507/- however on 13.10.2020 OP2 approved only partial amount of Rs.94,280/- on the ground that the demand was not valid and bills were exaggerated.
16. OP2 which is the insurance company has taken defense that it was bound by GI Council Covid-19 Guidelines and had accordingly sanctioned the amount. OP2 has filed the GI Council Covid-19 guidelines alongwith its Reply however it has not stated anywhere that how these guidelines were applicable in the case of the Complainant and how these guidelines were communicated to him by them.
17. Complainant has filed Circular No.F.23/Misc./Covid-19/DGHS/NHC/2020/Pt-VIII(A)/5732-5739 dated 20.06.2020 and Order No.52/DGHS/PH-IV/Covid-19/2020/prsecyhw/14450-14649 dated 20.06.2020 which states about the rates per day to be charged by NABH accredited hospitals and these documents also state that the OP hospital was covered under this Circular dated 20.06.2020. Complainant has not been able to explain whether he was coming under 60% of the Covid beds earmarked for these rates. *However where a person is holding valid Mediclaim Policy then his case as regards his claim made to Insurance Company would be governed by the Terms & Conditions of the Policy rather than the guidelines of the Govt. Of NCT (DGHS).*
18. The question which this Commission has to deal is whether the OP2 rightly sanctioned the amount of Rs.94,280/- as against the claim of Rs.2,71,507/-. OP2 has not been able to establish as to how these guidelines which are otherwise made by GI Council (General Insurance Council) in discussion with Expert Medical Professional employed by the Member Insurance Companies which brought out the schedule of rates for Covid-19 claims were applicable in the Complainant's case and how these guidelines were communicated to the Complainant and whether these guidelines had an overriding effect on the Mediclaim policy issued by them. Further, OP2 has also not demonstrated as to how these GI Council Covid-19 guidelines were made applicable on the hospitals covered by it and how OP2 was monitoring the fixing of rates by the Hospital and why they have not objected with these Hospital when they were charging more than the rates fixed by GI Council Covid-19 Guidelines and whether at the time of hospitalization of the Complainant they had communicated to him about these guidelines.
19. It also appears that after getting claim from the Complainant OP2 started looking into the details of previous illness of the wife of the Complainant and issued notice for cancelling the policy on the ground that wife of the Complainant was suffering from Arthritis 8-10 years back. This aspect was not looked into by OP2 at the time of issuance of the Policy and OP2 upon receipt of the claim only tried to look into these aspects to deprive the Complainant and his family member to avail the benefits of the Policy.
20. If the OP2 was holding the opinion that OP3 has overcharged the medical Bills and simultaneously has relied upon the GI Council Guidelines then it was OP2 only which had to ensure the OP3 was charging accordingly rather than taking this objection at the time of receiving the claim from the Complainant. Hence the contention of OP2 is untenable.
21. For the reasons stated above the defense of OP2 is not strong enough to allow it to sanction partial amount of the claim submitted by the Complainant and OP2 was bound to adhere to the Terms & Conditions of Insurance Policy issued by it and denying the benefit out of the said Policy amounts to deficiency in service on the part of OP2.
22. As regards the complaint against OP1 (Bank) and OP3 (Hospital) are concerned, the same are not substantiated.

In view of the above, the Commission holds OP2 liable for deficiency in service and orders as follows:

- OP2 shall pay Rs.1,77,227/- to the Complainant alongwith interest @7% p.a. w.e.f. 30.10.2020 within 30 days from the date of this Order;
- OP2 shall pay Rs.15,000/- to the Complainant towards mental agony and legal expenses.

If this Order is not complied within 30 days from the date of the Order then OP2 shall pay interest @ 9% p.a. on the total amount of Rs.1,92,227/- w.e.f. 13.10.2020 till the date of realisation.

- Complaint against OP1 & OP3 is dismissed.

Copy of the order be supplied / sent to the parties free of cost as per rules.

File be consigned to Record Room.

**[SUKHVIR SINGH MALHOTRA]
PRESIDENT**

**[RAVI KUMAR]
MEMBER**

**[MS. RASHMI BANSAL]
MEMBER**