Details	DD	MM	YY
Date of disposal	20	08	2026
Date of filing	12	06	2017
Duration	30	01	10

BEFORE THE CONSUMER DISPUTES REDRESSAL COMMISSION
GUJARAT STATE AHMEDABAD.

COURT NO: 01
COMPLAINT NO. 73/2017

Shri Chalthan Vibhag Khand Udhyog,
Sahkari Mandali Limited.
Address: At & Post Chalthan,
Taluka Palsana,
Surat. ...Complainant

Vs.

(1)The Oriental Insurance Company Ltd.
(2) Branch Manager,
The Oriental Insurance Company Ltd.
Address: Address: 3rd Floor, Boyce Building,
Opp. T. & T.V. High School,
Timaliyawad, Nanpura,
Surat. ...Opponent

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BEFORE: **Hon'ble Mr. I. D. Patel, In-charge President**
Hon'ble Dr. J. G. Mecwan, Member

APPEARANCE: Mr. V. M. Pancholi, Ld. Advocate for the Complainant
Mr. H.G.Majmudar, Ld. Advocate for the Opponent

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ORDER BY MR. I. D. PATEL, IN-CHARGE, PRESIDENT

1. The present complaint is filed by complainant Shri Chalthan Vibhag Khand Udhyog, Sahkari Mandali Limited. (herein referred to as "the complainant") u/s. 17 of the Consumer Protection Act, 1986, against the Opponent Oriental Insurance Company Ltd. (herein referred to as "Opponent") for claiming relief as mentioned in para 16 of the complaint.

Brief facts of the Complaint:-

2. The Complainant had purchased sugar cane harvester machine/vehicle of New Holland Company on 27.05.2012 from

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authorised dealer. It is further the case of the complainant that the said harvester machine was insured with the opponent insurance company from 22.02.2014 with the IDV of Rs.79,35,490/-, and during the period of insurance, on 09.12.2015, the sugar cane harvester machine caught fire due to short circuit, resulting into total loss of the machine. Therefore, on the same date, the complainant informed the opponent insurance company and accordingly, the opponent insurance company appointed spot surveyor Shri Gadiyali, who carried out the necessary survey. The complainant has also informed surveyor who came to the spot and assessed the loss, and as per the same, Kothari Engineer submitted an assessment of the cost of repairing dated 03.03.2015 of Rs.1,23,88,889.74/-. Therefore, since the repairing cost of the machine exceeds the IDV, the insurance company was required to settle the said claim as per the IDV of the machine.

3. It is further the case of the complainant that thereafter, the insurance company appointed Rahman & Company as surveyor for final survey. The complainant has produced all the necessary documents. However, the insurance company has not settled the claim for 8 to 10 months without any just and reasonable cause, and therefore the complainant made numerous reminders for settlement of the claim. Hence, after 23 months, vide letter dated 07.12.2016, the insurance company repudiated the claim of the complainant on the ground that there was no valid certificate of periodical inspection during the intervening period on 09.12.2015, on which the fire broke out in the insured vehicle. But as per the case of the complainant, since the sugar cane harvester machine is a special purpose vehicle, the same is exempted from obtaining a certificate of periodical inspection. However, in order to avoid technical objections, after purchasing the vehicle/machine, the complainant obtained CPI for the first

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time after the time of registration at the RTO. But as per the legal provision, it is mandatory to obtain CPI for sugar cane harvester.

4. It is also further the case of the complainant that even if there is an interpretation that CPI is necessary for sugar cane harvester, then also the insurance company was required to settle the claim on non-standard basis. However, the insurance company has not settled the claim and thereby committed deficiency in service, and hence the complainant has filed the present complaint against the opponent insurance company.

Written Statement of the Opponent

5. The opponent insurance company has filed a detailed written statement against the complaint, wherein the insurance company has raised certain preliminary objections with regard to maintainability of the complaint. Furthermore, the insurance company has also denied the allegations made in paragraphs 1 to 12 of the complaint against the insurance company for commission of deficiency in service.

6. Furthermore, the insurance company has submitted that the insurance company has repudiated the claim because the vehicle fitness certificate and form of CPI had expired. CPI is periodical inspection and obtaining non-standard certificate from RTO regarding CPI of the vehicle was from 12.06.2012 to 11.06.2014. The incident occurred on 09.12.2015, and therefore, on the date of incident, there was no CPI certificate of the vehicle, and therefore, the insurance company has rightly repudiated the claim of the complainant.

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Rejoinder Affidavit of the Complainant

7. Complainant has filed the rejoinder affidavit against the reply/written statement, wherein he has reiterated the facts stated in the complaint and submitted that as per the provisions of law, CPI is not mandatory for sugar cane harvester, since the policy in question is issued for sugar cane harvester and not for the transport vehicle.

Documentary Evidence of the Complainant :-

That the complainant has produced the following documentary evidence:

Sr. No.	Particulars	Page Nos.
1	Xerox copy of the Policy Schedule — 22.05.2015, 21.05.2015	7 to 9
2	Photocopy of the repair quotation given by the workshop — 03.03.2015	10 to 13
3	Xerox copy of the Nodal Letter from Unison Insurance Broking Service Pvt. Ltd. — 17.03.2015	14
4	Xerox copy of the letter written by the Complainant to the Respondent	15-20
5	Xerox copy of the letter written by the Complainant — 20.04.2015	21
6	Xerox copy of the letter written by the Complainant — 01.05.2015	22
7	Xerox copy of the letter written by the Complainant — 08.05.2015	23
8	Photocopy of the letter written by the Complainant — 26.05.2015	24
9	Xerox copy of the letter given by the Respondent — 15.12.2016	
10	Xerox copy of the contents of the Gujarat Motor Vehicles Rules, 1989.	

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11	Xerox copy of the Motor (Spot) Survey Report of Zersis A. Ghadiali. — 16.03.2015	
12	Xerox copy of the Certificate of Registration. — 28.05.2012	
13	Photographs of the vehicle in question (5 photographs).	

Documentary Evidence of the Opponent :-

Opponent insurance company has produced the following documentary evidence:

Sr. No.	Particulars	Page No.
1	Copy of the policy with Terms/ Condition	35-47
2	2. Copy of the RC Book	48-52
3	3. Copy of the CPI Certificate	53
4	Copy of the Investigation Report with Original Affidavit Rti and Reply	54 -67
5	Copy of the Survey Report	68-123
6	Copy of the Gujarat Motor Vehicle Rules	124 125
7	Copy of the Claim Repudiation Letter	126-127

Evidence of the Investigator

8. Opponent insurance company has filed affidavit of Jigar K. Patel, investigator, and as per the said affidavit, the investigator has gone through the record and, after considering each and every aspect of the claim, he has submitted his report to the insurance company vide report dated 12.08.2015. As per his report, certificate of periodical inspection is mandatory for the vehicle in

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question, and the said certificate had expired on the date of alleged loss.

Arguments of advocates of the Parties :-

9. That learned Advocate Mr. V. M. Pancholi and Learned Advocate Mr. H. G. Majmudar have filed their written submissions for the respective parties.

10. That Learned Advocate Mr. V. M. Pancholi has submitted that complainant has taken the policy of sugar cane harvester machine for the IDV of Rs.79,35,490/-lakh from the opponent insurance company and on 09.12.2015, vehicle caught fire due to short circuit, resulting into total loss. Hence, complainant lodged the claim with the opponent insurance company, but the opponent insurance company repudiated the claim by letter dated 07.12.2016 page 126 on the ground that the vehicle fitness certificate/CPI had expired, and thereby the complainant committed breach of Section 172 A of the Gujarat Motor Vehicles Rules.

11. It is further submitted by Learned Advocate Mr. V. M. Pancholi that though the complainant had submitted all the necessary documents to the surveyor, Rahman & Company, the insurance company has not settled the claim within 30 days' time as per the IRDA guidelines. Insurance company took time of more than two years after the happening of the incident.

12. Learned Advocate Mr. V. M. Pancholi has also submitted that as per the documents produced by the complainant and more particularly Gujarat Motor Vehicles Rules, sugar cane harvester machine is a special purpose vehicle to be used normally at the construction site or in the agricultural field, and therefore CPI certificate of the vehicle is not mandatory. Even if it is

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mandatory, as per the case of the insurance company, then also, it cannot be said to be a fundamental breach of the rules, and therefore the complainant is at least entitled to settlement of the claim on non-standard basis, that is, the complainant is entitled to get 75% of the IDV of the vehicle.

13. Hence, as per the submission of the Learned Advocate Mr. V. M. Pancholi, looking to the complaint, documentary evidence and rejoinder affidavit of the complainant, the complaint is required to be allowed.

14. Per Contra, Learned Advocate Ms. H. G. Majbudar for the insurance company has vehemently submitted that the insurance company has repudiated the claim of the complainant vide letter dated 07.12.2016 on the ground that vehicle certificate/CPI had expired, which amounts to breach of Section 177 of the Gujarat Motor Vehicles Rules, and this breach is a fundamental breach of the Motor Vehicles Act and Rules, and therefore, the insurance company has rightly repudiated the claim and has not committed deficiency in service.

15. Learned Advocate of the insurance company has also placed reliance upon the following decisions in support of their submission.

[1] I (2014) CPJ 597 (NC)
New India Assurance Co. Ltd. V/s. Birbal Singh Jhakhar.

[2] Appeal No. 7773 of 2015 at CDRC, Gujarat State. National Insurance Co. Ltd. V/s. Aarvindbhai Faldu.

[3] Appeal No. 415/2012 at CDRC, Gujarat State.Ashish R. Patel V/s. Future Gen. India Ins. Co. Ltd.

[4] Appeal No. 1427/2014 at CDRC, Gujarat State. Reliance General Ins. Co. Ltd. V/s. Ibrahimbhai S. Haji.

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[5] Revision Petition No. 1710/2014 at NCDRC, New Delhi. Hem Raj Goyal V/s. Reliance General Insurance Co. Ltd.

[6] Revision Petition No. 4045/2014 at NCDRC, New Delhi. Ashok Kumar V/s. National Insurance Co. Ltd.

[7] Revision Petition No. 1320/2016 at NCDRC, New Delhi. Universal Shampoo General Insurance Co. Ltd. V/s. Aparna Singh Gaur.

Discussion and Findings

16. We have considered the submissions of the Ld. Advocates for the parties in great detail. We have also examined pleadings and documentary evidence filed by both the parties and we have also considered the written as well as oral submissions of the Ld. Advocate for the parties.

17. That Looking to the material on record, on perusal of the policy at pages 36-37, it appears that the complainant had taken out/obtained policy for sugar cane harvester machine for the period from 22.05.2014 to 21.05.2015 from the opponent insurance company and as per the policy, IDV is Rs.79,35,490/-.

18. It also appears from the record of the case that on 09.12.2015, the vehicle caught fire due to short circuit, which resulted into total loss, and therefore the complainant lodged the claim with the opponent insurance company. Insurance company obtained spot survey of Shri Ghadiali and final survey by Shri Rehman and Company and also appointed investigator Jigar K. Patel, whose reports were produced by the insurance company along with documentary evidence list dated 30.10.2018.

19. The insurance company has repudiated the claim of the complainant vide letter dated 07.12.2016 on the ground that as per the certificate of periodical inspection in respect of the

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insured vehicle from Bardoli, Surat RTO on 19.10.2015, it is found that insured vehicle was valid for the period from 12.06.2012 to 11.06.2014, and thereafter it was obtained up to 11.02.2015 to 10.02.2016 from Bardoli Surat, RTO and this clearly shows that there was no certificate of periodical inspection during the intervening period which covers the date of inception of 09.02.2015 on which the fire broke out in the insured vehicle.

20. Furthermore, insurance company has also repudiated the claim relying on Rule 172 A of the Gujarat Motor Vehicles Rules, which is mandatory in nature. The insurance company has relied upon the survey report as well as investigation report and affidavit. Whereas, the complainant has placed reliance upon the Gujarat Motor Vehicles Rules, 1989 and as per Rule 176, titled "Exemption of certain vehicles", and as per the said Rule, special purpose vehicle is to be used normally at the construction and agricultural sites.

21. It is the case of the complainant that the sugar cane harvester machine is used only in agricultural activity and not believed to be used on road and for transport activity, and therefore obtaining CPI is not mandatory as per the provisions of law.

22. We have gone through the various decisions of the Hon'ble National Commission cited by the learned advocate of the insurance company. Looking to the same, it appears that most of the judgments relate to breach of permit or as well as fitness certificate, but here in this case there is breach of CPI by the complainant.

23. So, according to our considered opinion, when the sugar cane harvester machine is a special purpose vehicle for use in

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agricultural activities and not for any transport activities, then CPI is not mandatory. Even for the sake of arguments, we accept the findings of the insurance company on the ground that insurance company has repudiated the claim on the ground that CPI is necessary for sugar cane harvester machine also, even then, according to our considered opinion, non-having of CPI cannot be stated to be a fundamental breach for rejection of the total claim. So, according to our considered opinion, complainant is at least entitled to get 75% of the total IDV of the vehicle on non-standard basis. But here in this case, the insurance company has repudiated the total claim of the complainant, which amounts to deficiency in service on the part of the insurance company.

24. According to our considered opinion, when the complainant has not committed any breach of Motor Vehicle Rules as well as policy, or at the most, complainant has not committed any fundamental breach of the Motor Vehicle Rules for not having CPI certificate of vehicle, the claim is required to be settled on non-standard basis, that is, 75% of IDV of the vehicle. As per the policy, pages 36 and 37, IDV of the vehicle/machine is Rs.79,35,490/-, and therefore, considering 75% of the IDV, the complainant is entitled to get Rs.59,51,617/- i.e.75%, with reasonable amount of interest and cost, and accordingly, the complaint filed by the complainant requires to be allowed in terms of the following final order.

ORDER

1. The Complaint No. 73 of 2017 filed by the complainant Shri Chalthan Vibhag Khand Udhyog, Sahkari Mandali Limited against opponent, The Oriental Insurance Co. Ltd. is hereby partly allowed.

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2. The Opponent The Oriental Insurance Co. Ltd. is hereby directed and ordered to pay Rs.59,51,617/- (Rupees Fifty Nine Lakh Fifty One Thousand Six Hundred and Seventeen) with 8% interest from the date of filing of the complaint till its realization.

3. The Opponent The Oriental Insurance Co. Ltd. is hereby also directed and ordered to pay Rs.25,000/- (Rupees Twenty Five Thousand) towards mental harassment and Rs.10,000/- (Rupees Ten Thousand) towards the cost of present complaint.

4. Office is directed to forward a free of cost certified copy of this order to the respective parties.

Pronounced in the open Court today on **20th August, 2026.**

[Dr. J.G. Mecwan]
Member

[I.D. Patel]
In-charge President