

# • INSURANCE INSIGHT

Evidence not a mere formality in Consumer Disputes

False declaration of age in a proposal form - breach of material fact

Valuation of property while calculating underinsurance



## Evidence not a mere formality in Consumer Disputes

The Hon'ble National Consumer Disputes Redressal Commission (NCDRC) has held in its judgment in the matter of Bajaj Allianz General Life Insurance v. Macherla Kishore Kumar [RP/776/2020] dated 17/08/2023 that the consumer forums cannot close the evidence of the insurance company merely because the summoned witness or doctor did not appear to prove his report.

Hon'ble NCDRC further observed that the District Forum in issuing the summons to the concerned Doctor/Medical officer, exercises its powers under Section 13(4) of the Consumer Protection Act, 1986, which are at par with all the powers of a civil court under the Civil Procedure Code, 1908.

Having summoned a witness, the consumer forum cannot leave the process mid-way. It has to ensure that the summon has actually been served and upon non-appearance despite service, enforce attendance, by exercising the relevant powers under Order XVI Rules 10 & 12 of the Civil Procedure Code.

## Valuation of property while calculating underinsurance

Hon'ble National Consumer Disputes Redressal Commission (NCDRC) has held in its judgment dated 09/08/2023 in the matter of NIC v. M/s Jagga Nath [FA/699/2023] that underinsurance

occurs when the amount of insurance is less than the full value of the property insured.

A question arises as to how the full value of the property insured will be determined? For example, a car was purchased for Rs.2,00,000/-, five years ago from the date of insurance, then on the date of insurance or on the date of loss, what will its correct/full value. The correct value of the car on the date of insurance or loss will be purchase price minus depreciation and not current value of same model car on the date of insurance or loss.

Hon'ble NCDRC held that the same principle would also apply for the stocks.

Relying on the aforesaid method, the Hon'ble NCDRC set aside the surveyor's calculation of under-insurance of plant & machinery for taking into consideration the current price instead of purchase price of the machinery.

## False declaration of age in a proposal form - breach of material fact

Hon'ble National Consumer Disputes Redressal Commission (NCDRC) has observed that age in a proposal form is a material fact and false declaration of material fact renders the Insurance contract voidable in its judgment in the case of Bajaj Allianz Life Insurance v. Heeralal Patel [RP/219/2022] dated 17/07/2023.

This is a case where proposal form mentioned the age of the Life assured as 45 years instead of 54

years.

The Hon'ble NCDRC in revision jurisdiction held that the age is a material fact because premium differs for different age groups and giving false declaration of age renders the contract voidable.

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