

INSURANCE

INSIGHT

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In the case of *M/s. Bharti Axa General Insurance Co. Ltd. vs. K. Subbulakshmi* (RP 599 of 2019), the NCDRC addressed the issue of repudiation of a motor vehicle insurance claim based on alleged overloading.

The insured vehicle, an Eicher van, had a permitted carrying capacity of 9,200 kg but was found to be carrying approximately 11,880 kg at the time of an accident, exceeding the limit by about 29%. The insurer repudiated the claim citing breach of policy terms and statutory limits. The District Forum initially dismissed the claim, but the State Commission partially allowed it, finding the overloading not a fundamental breach repudiating the insurance policy.

On appeal the NCDRC, affirmed this view. The NCDRC held that the overloading did not constitute a fundamental breach to relieve the insurer of liability. The claim was granted on a non-standard basis at 75% of the net assessed loss of Rs. 2,51,723, amounting to Rs. 1,88,792 with interest. The commission directed payment with specified interest and rejected claims for mental agony compensation. This ruling clarifies the treatment of marginal overloading in motor insurance claims and reinforces proportionate relief while maintaining insurer obligations in case of a non-repudiatory breach.

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In the case of *Cholamandalam MS General Insurance Co. Ltd. & Anr. vs Rajesh Kumar* (RP 2966 of 2016), the insurer challenged a State Consumer Forum order dismissing its repudiation of theft insurance claim for a Hyundai Verna car. The car was stolen during the policy period, and the complainant promptly notified the police on the theft day. However, the insurer alleged a delay of over three months in the complainant's intimation to it and denied the claim.

The District Consumer Forum allowed the claim, a decision upheld by the State Commission. On revision, the NCDRC affirmed that immediate police intimation suffices and delay in informing the insurer is no longer a ground for repudiation, citing the case of *Gurshinder Singh Vs. Shriram General Insurance Company Ltd.*, 2020 (11) SCC 612. The NCDRC also underscored the limited scope of revisional jurisdiction and rejected insurer's plea for interference. This judgement highlights contemporary legal stance favoring insured parties in theft claims and limits insurer defenses based on procedural delays lacking substantive prejudice.





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