

**AHMEDABAD**

**Case No.11-010-0531-10**

**Mr. Shaji Sadasivan**

**V/s.**

**IFFCO Tokio General Insurance Co. Ltd.**

**Award dated 23-06-2010**

Partial repudiation of Claim under Motor Car O.D Policy.

The Respondent had decided to partially settle the claim of Motorcar damaged due to accident on the basis of the Surveyor's Report treating the damage as partial loss.

The complainant submitted that his damaged jeep was handed over to the authorised dealer of the manufacturing company and the surveyor has advised to change the body of the jeep, but the surveyor had submitted his report to the Respondent without giving intimation and without obtaining his signature for lesser amount than the actual charges.

The Respondent submitted that they had settled the claim based on the surveyor's report after deducting expected salvage value.

This forum also obtained independent opinion from a surveyor who opined that body shell was repairable and not required to be replaced. Therefore the Respondent's decision of settling the claim based on their surveyor's report was upheld.

In the result, the complaint fails to succeed.

**Case No.11-003-0268-11**

**Mrs. Geetaben H. Pathak**

**V/s.**

**National Insurance Co. Ltd.**

**Award dated 18-08-2010**

Delay in settlement of Motor OD and PA claim:

The claims were not paid by the Respondent on the grounds of non submission of driving license of the deceased insured who was driving the vehicle at the time of accident and died in the accident.

The Complainant submitted that driving license scattered on the road along with other materials at the time of accident and could not be traced.

This forum decided that Respondent was justified in rejecting the subject claim as per terms and conditions of the motor policy.

In the result, complaint fails to succeed.

**Case No.11-009-0204-11**

**Dr. Kirit N. Shelat & Mrs.Ila K Shelat**

**V/s.**

**Reliance Gen.Ins.Co.Ltd.**

**Award dated 30-08-2010**

Repudiation of late arrival compensation on Travel Care Ins. Policy:

Claim lodged for compensation for late arrival of baggage from Johannesburg to Mumbai by seven days. Complainant demanded US\$300 against late arrival of their baggage.

Respondent confirms with reference to the policy schedule that there is provision of benefit against "delay in arrival of checked in baggage". Claim repudiated invoking benefit 5 of item No.7 of the terms and conditions of the policy which interalia state that company shall not be liable to make payment under the policy for any checked-in baggage delay on the inbound sector to the Republic of India.

The Complainant resented that he was not provided with terms and conditions of the policy and also pointed out that the said restriction on claim with regard to delay in arrival of checked baggage is not in keeping with international practice of Insurers.

As is known, clauses of a contract are to be understood in its ordinary meaning as framed and where ambiguity is not evident, interpretative interference should be avoided.

In the result complaint fails to succeed.

Overseas Travel Policy

**Award dated 30-08-2010**

**Case No. 11-009-0314-11**

**Mr. Kirti Shelat Vs. Reliance Gen. Insurance Co.Ltd.**

The claim was repudiated on the ground that it does not qualify the benefit as per Benefit 5 of item no 7 of the policy which state that company shall not be liable to make payment under the benefit, if any checked-in baggage delay on the inbound sector to the Republic of India

Overseas Travel Policy

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**CHENNAI**

**Complaint No.IO (CHN) 11.03.1016 / 2009-10**  
**AWARD No. IO (CHN) /G/ 16/2010-11 dated30thJune2010**

**(Overseas Mediclaim)**

**Mrs.Anusuya Srinivasan.vs National Insurance Co Ltd**

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The complainant had taken an Overseas Medical policy from the above insurance co before going to Singapore on 7.09.2008.On 9 th sep she had some discomfort in her Rt breast and consulted a Dr at Singapore who advised her to take various tests and incurred some expenses.The claim was denied by the insurer stating that it was pre existing.The insured had represented that the ailment was not pre existing since it was not known earlier and hence she has not disclosed it in the proposal form.the insurer had mentioned that they have issued the policy based on the Medical Reports submitted by the insured where they have mentioned specific exclusions of the ailments declared therein.They have therefore repudiated the claim.

The complainant had stated that she came to know of the disease only on 9th Sep 2008 and its symptoms were not known to her earlier to that date. If the symptoms were known to her earlier she would have taken treatment at Chennai itself rather than at Singapore. Since she did not notice any lump or discomfort during her stay at Chennai she did not declare about that in the proposal form. The insurer had obtained details of hospitalisation in respect of the complainant between 04/09/2008 and 05/09/2008 at St Isabel's Hospital, Chennai which indicate the treatment for Multiple Polyp Stomach with SOL LIVER -RIGHT BREAST LUMP WITH AXILLARY ADENOPATHY. These details of hospitalisation between 4/9/2008 and 5/9/2008 were sent to the complainant for her comments and clarification. The complainant has not sent any reply. Hence the stand of the insurer in rejecting the claim on the policy exclusion relating to pre existing condition is justified.

The complaint is dismissed.

**Complaint No. IO (CHN) 11.18.1673 / 2009-10**  
**AWARD No. IO (CHN) /G/21/2010-11 dated 6th July 2010.**

**(Overseas Mediclaim)**

**Mr Balasubramanian Viswanathan. Vs Future Generali India Insurance Co Ltd.**

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The complainant had taken an overseas travel policy through the above insurance company from 24.05.2009 to 19.11.2009 and left India for a Mediterranean cruise on 23.05.2009 and on 31.05.2009 his glass was broken accidentally. He had to wait till 5<sup>th</sup> June for the ship to reach U.S.A. He had to undergo tests and the doctor has diagnosed Retinal detachment and multiple tears in his LE. The insurer was informed of the surgery and according to the insured the insurer had advised him to go ahead with the surgery and seek reimbursement. The claim submitted by the insured was rejected by the insurer on the ground of pre existing disease and also based on treating doctor's report. The insurer had mentioned that as per treating dr's report the patient had progressive diminished vision since 6/8 months and chronic Ret Detachment LE with ICD code no 361.07.

The insured had mentioned that on reaching USA on 5<sup>th</sup> June 2009 he could get appointment with an Eye Doctor only on 19.06.2009 for prescription of new glasses. The doctor on examination of his eyes diagnosed retinal detachment and multiple tear in the left eye and referred him to another doctor for surgery. Accordingly surgery was performed on 25.06.2009 and submitted claim for US \$15,117.63. But the claim was rejected on preexisting condition. The insured had argued that two weeks with retinal detachment and multiple tear was too long a period and it was an emergency for him to undergo surgery at USA. He also said that he would not have traveled with such a serious condition and would have undergone surgery in India. The insurer had stated that they have taken the decision based on operating

doctor's note that the patient had poor vision in the left eye for at least two months and he had a chronic macula of retinal detachment in the left eye

The proposal submitted at the time of taking the policy mentions medical management for diabetes and hypertension and also about right inguinal hernia. There was no mention about any problem relating to the eye. The insurer as per the medical report excluded the pre existing conditions and retinal detachment was not one among them. The operative notes of 25/06/2009 should be viewed from the Eye Surgeon report of Chennai dated 05/05/2009 wherein the patient had routine eye check up before departure for abroad and certified as free of vision problems. The treating surgeon at USA had also indicated based on the report of Chennai that the retinal detachment must have occurred after 5.05.2009. Taking all the factors into account the rejection of claim by the insurer without any clinching evidence is not in order and hence they are directed to process and settle the claim in accordance with the other terms and conditions of the policy.

The complaint is allowed.

**DELHI**

**Case No.GI/196/OIC/09**  
**In the matter of Shri Chander Mohan Bagga**

**Vs**

**The Oriental Insurance Company Limited**

**AWARD dated 21.07.2010 - OMP claim (Overseas Mediclaim policy)**

1. This is a complaint filed by Shri Chander Mohan Bagga (herein after referred to as the complainant) against the decision of The Oriental Insurance Co. Ltd (herein after referred to as respondent Insurance Company) for inadequate settlement of OMP claim.
2. Complainant submitted that he had taken an overseas Mediclaim policy by Travel Tag for the period 27.06.2008 to 31.07.2008. The complainant submitted that he was surprised to learn that Insurance Company is not making payment on respect of USD 806.7 to the hospital, though balance amount was paid on behalf of the Insurance Company to the hospital but this amount was not paid as the same related to the pre-existing disease. The complainant had submitted the claim to the Heritage Health TPA Pvt. Ltd and the claim was approved for USD 300.00, USD 583.00, USD 13090.92, USD 195.00, USD 1875.00 and USD 496.00. However, the amount of USD 806.7 was deducted as such charges related to Diabetes and Hypertension on the ground of pre-existing disease.

3. During the course of hearing the representative of the Insurance Company informed that claim amount is not payable as per policy conditions. Accordingly USD 806.7 was deducted.
4. I have considered the submissions of the complainant. I have also considered the documents placed on records by the complainant. After due consideration of the matter I hold that Insurance Company is not justified in not issuing the payment of USD 806.7 to the hospital because it has come to my notice during the course of hearing whereat both complainant and representative of the Insurance Company were present, that the complainant was insured since 2003 and did not apply for any claim. The policy holder has not been found having been treated of this disease i.e. Diabetes and Hypertension. Accordingly, Insurance Company is directed to ensure the payment of USD 806.7 to the hospital whereat the insured was treated in foreign country during the period of insurance.
5. The Award shall be implemented within 30 days of receipt of the same. The compliance of the same shall be intimated to my office for information and record.
6. Copies of the Award to both the parties.

## **MUMBAI**

**14.09.2010**

## **Overseas Travel Insurance Policy**

**BEFORE THE INSURANCE OMBUDSMAN**

**(MAHARASHTRA & GOA)**

**MUMBAI**

**Complaint No. GI-300/2010-2011**

**Award No. IO/MUM/A/242/2010-11 dt. 14.09.2010**

**Complainant: Shri Chetan D. Tolia**

**Respondent: Bajaj Allianz General Insurance Co. Ltd.**

Shri Chetan D. Tolia was covered under the Travel Companion – Overseas Travel Insurance Policy No. OG-10-1901-9910-00017853- Travel Elite Corporate Plus Plan for the period 20.02.2010 to 19.02.2011 for USD 5,00,000/-, issued by Bajaj Allianz General Insurance Co. Ltd. On 12.04.2010 Shri Chetan left for Paris from Mumbai and was scheduled to return from Paris on 16.04.2010 by Air France flight. The said flight was cancelled due to Volcanic Eruption in Iceland and he rebooked the ticket for 19.04.2010 which was again cancelled. Finally he left Paris on 22.04.2010 and returned to Mumbai. The claim lodged for reimbursement of expenditure incurred due to cancellation of his return trip was repudiated by the Company referring to Section K– “Trip Cancellation” of the policy. Aggrieved by the repudiation of his claim, the complainant approached this Forum for intervention in the matter.

A joint hearing was held with the parties to the dispute. Shri Chetan Tolia stated that the terms and conditions of the policy were received by him only after the payment of premium. He vehemently argued that the cover as provided under the policy was of no use and if it does not provide the protection much needed during overseas travel, the very purpose of taking the policy is defeated. Instead the policy should be designed in a simple format which would clearly lay down the benefits available under it and the Exclusions. It was contended on behalf of the Company that the policy schedule along with the Travel Kit was handed over to him on 18.02.2010 as per the Date of Purchase mentioned on the Policy Schedule but could not provide any evidence in support of her submission about the date of receipt of the policy by the insured. It was further stated that Section K “Trip Cancellation” provides indemnity to the insured for expenses incurred following necessary and unavoidable cancellation of the trip prior to its commencement on account of contingencies specified therein. In the instant case the trip of the complainant had already commenced from Mumbai and hence the claim is not payable as per the terms and conditions of the policy.

While appreciating the complainant’s concern about the construction and format of the insurance policy and the coverage offered under it, it has to be borne in mind that each and every Insurance policy has its own set of terms, conditions and exclusions and these terms and conditions shall govern the contract between the two parties i.e. the Insurer and the Insured and a party to the contract cannot plead ignorance of its terms and conditions. In the instant case, the policy schedule clearly specified that the policy coverages were as per the policy terms and conditions mentioned in the Travel Kit provided with the policy schedule. Section K of the policy which pertains to “Trip Cancellation” provided for indemnifying loss of personal accommodation or travel charges paid or contracted to be paid by the insured following necessary and unavoidable cancellation of the trip prior to its commencement due to contingencies specified thereunder. Since the trip of the insured had already commenced from Mumbai, the decision of the Insurance Company to repudiate the claim being based on the policy terms and conditions