

# *Vehicle Insurance Policy*

**Ahmedabad Ombudsman Centre**

**Case No. 11.005.0128**

**Mr. Bhavesh M. Shah**

**Vs**

**Oriental Insurance Co. Ltd.**

**Award Dated 01.4.2005**

Motor Own damage Claim repudiation. Shri B. M. Shah has his vehicle No. GJ - 6 - W - 8204 INSURED UNDER policy No. 31 / 2004 / 1002 for Sum Insured of Rs. 3,50,000/-. The Insured Vehicle accidented and the Motor OD Claim was repudiated by the Respondent on the ground that there was breach of Condition regarding 'limitation as to use'. It was pointed out that the Insured Vehicle was covered under Package Policy for Goods carrying Vehicle which imposed 'limitation as to use' only for carriage of Goods. The said Standard Package Policy relieves the Insurer from any liability with regard to accidental loss or damage where the Insured Vehicle is used otherwise than for goods carrying purpose. In the instant case, it was alleged that at the time of accident Vehicle was carrying fare paying passengers, hence the liability was repudiated.

Critical Points for determination in this case are how far the evidences vis FIR, Panchnama, News Paper, Cutting of the event prove the allegation in respect of 'limitation as to use' and that what is the position taken by the Judicial Forums in adjudicating similar cases. In the injured. The Panchnama, FIR or News Paper Cutting did not mention that these three persons were "fare paying passengers". In other words, it was not denied that there were three persons in the vehicle at the time of accident who were given lift by the Driver, but it is not proved that the vehicle was being used for purpose of earning fare by transporting passengers. The Respondent also agreed in course of Hearing that it was more a presumption on their part rather than proved by evidence that the person in question were fare paying passengers. Cases referred to are Oriental Insurance Co. Vs. Rajkumar Gupta (2004 CCJ 485) AND The New India Assrance Co. Vs. Gulshan Kumar (2004 CCJ 860). The Respondent was directed to pay Rs. 55,000/- to the Complainant on non-standard basis.

**Ahmedabad Ombudsman Centre**

**Case No. 11.002.0101**

**Arjumanbanu A. Shaikh**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 07.4.2005**

Arjumanbanu A. Shaikh had insurance cover for her Truck (Regn. No. GJ - 01 - T - 5477) under Package Policy bearing No. 210201 / 31 / 02 / 06757. A Claim for total loss due be settled as the Respondent opted to settle the Claim on replacement basis instead of paying the amount of loss in cash. The Complainant did not agree for settlement on replacement basis and insisted to pay in cash the amount of loss due to theft of the vehicle. Respondent relied upon Policy Condition No. 4. The said Condition

gave them option of repair, reinstate or replace the vehicle insured or may pay in cash the amount of loss or damage. This was the first Claim that was being settled on the replacement basis through this option was operative since long. The Respondent tried to explain that their Head Office had suggested to try this option. At the same time it was made clear that it was not a Corporate directive but a mere suggestion and that too was to be applied to Private Motor Car Policy. Subject Vehicle being a Commercial Vehicle the replacement option should not desirably be chosen. As there had been no dispute regarding total loss of the Insured Vehicle, the settlement on IDV basis for Rs. 7,18,500/- (After deduction of Excess of Rs. 1500) became admissible and Respondent was directed to pay the same.

**Ahmedabad Ombudsman Centre**  
**Case No. 11.004.0089**  
**Mr. Govindbhai J. Vadher**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 08.4.2005**

Mr. Govindbhai J. Vadher had his Truck No. GJ - 3V - 9767 insured under Motor Package Policy bearing No. 16710 / 02. His Claim for Accident loss to the Insured Vehicle was offered to be settled by the Respondent for an amount not acceptable to him. In this case the Truck overturned on its right side after going below the road sidestep area and then dashed with the wall of the bridge causing severe damages. Spot Survey and Final Survey were done. The Final Survey Report of Mr. Ajay Sharma was found to be fairly detailed and the Surveyor assessed the loss after scrutiny of Bills which worked out to Rs. 2,13,581/-. Salvage was valued at Rs. 8,501/- and Spot Survey fee of Rs. 920/- was found payable to the Claimant Thus, the net amount payable on repair basis after deduction of excess worked out as under.

Amount fo gross loss assessed :	Rs. 2,13,581/-
Less Salvage	Rs. 8,501/-
<hr/>	
Add Reimbursement of Spot Survey	Rs. 920/-
<hr/>	
Net Payable Claim	Rs. 2,06,000/-

Re-inspection Report also confirmed the repairs as permitted. One other Surveyor was asked to inspect the salvage of Engine Spares. It was judgement over first survey report of Mr. Ajay Sharma. This Report inter alia pointed out that Rs. 73,774/- out of final assessment of loss made by Mr. Ajay Sharma was not payable. This prompted the Respondent to offer the Claim amount of Rs. 1,34,913/-. The dispute arose due to the second inspection report by Mr. Vora. The justification of calling this report can be called in question and its outcome should be viewed in light of the following judicial precedent. In the case of National Insurance Co. Vs. New Patiala Trading Company (2004 CCJ 537) the Hon'ble State Commission did not find justification on the part of the Insurer in appointing another Surveyor. The Hon'ble National Commission upheld the position and pointed out inter alia that it is a statute which prescribes the appointment of Licenced Surveyor and Loss Assessor and prima facie therefore credence will have to be given to the report of such Approved Surveyors and Loss Assessor. Respondent to pay Rs. 20,600/- to the Complainant as assessed by Mr. Ajay Sharma.

**Ahmedabad Ombudsman Centre**  
**Case No. 11.004.0206**  
**Shri Sikandarbhai I. Gujrati**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 15.4.2005**

Partial Repudiation under Motor Vehicle Policy. The Complainant's truck met with an Accident. The Respondent had after receiving an unqualified Discharges Voucher for full and final settlement; issued the cheque for payment of Claim. Now the Complainant desired to raise grievance since while paying the Gross Claim amount; some "Excess" had been recovered. As per the settled law, the Complainant once having accepted the amount in full and final settlement, the matter cannot be normally agitated. Since the Complainant could not prove any fraud, misrepresentation or undue influence on the part of the Respondent to get the Discharge Voucher executed; the Complainant is estopped from reopening the Claim. The Decision of the Respondent in settling the Claim was upheld with no relief to the Complainant.

**Ahmedabad Ombudsman Centre**  
**Case No. 14.003.0106**  
**Mr. Prakash L. Parmar**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 18.4.2005**

The Tata Mobile Car of the Complainant met with an accident on 13.12.02 and a Claim of Rs. 1,03,005/- was lodged. The Surveyor assessed loss at Rs. 38,993/- as net payable amount. The Claim was repudiated as there was no endorsement of Certificate of Periodical Inspection (CPI) as per Rule 173 of Gujrat Motor Vehicle Rules and it is applicable to Tata Mobile Car as per amendment No. 172 A of the said Rules, 1989. There was no other infirmity in the Claim and claim was otherwise genuine as per Respondent. Complainant informed during the Hearing that he was ignorant about provision regarding CPI endorsement in RTO Book. He got it done w.e.f. 20.8.03 when he was informed by the Surveyor. Since there was no other deficiency the claim deserved to be settled on non-standard basis (75 %) instead of repudiating in total. The breach which is not critical or contributory to the circumstances which lead to accident is eligible to be treated as non-standard. Respondent was asked to pay Rs. 29,243/- in full and final settlement of the Claim.

**Ahmedabad Ombudsman Centre**  
**Case No. 14.003.0231**  
**Ms. Vaishali K. Sen**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 25.4.2005**

Ms. Vaishali K. Sen, owner of the scooter lodged an FIR with the Police Authority that her sooter was stolen on 7.2.03. She had informed Police in FIR that scooter was unlocked and the key was left in the vehicle itself. The claim submitted by her was repudiated by Respondent on the ground that there was palpable lack of care for the insured property as she kept the vehicle unlocked and left the key inside. The Complainant affirmed the said contention to the investigator appointed of repudiation was upheld with no relief to the Complainant. However, the Respondent appreciated

the high degree of honesty shown by a young girl though it became basis of repudiation.

**Ahmedabad Ombudsman Centre**  
**Case No. 11.004.0265**  
**Mr. B. N. Makwana**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 06.5.2005**

claim lodged under Private Car Package Policy declared as "No Claim". The Respondent had treated the Claim as non-payable on the ground that the Complainant had no insurable interest in the Insured Vehicle when the Accident occurred. At the time of the Claim, the vehicle was in the possession of the Complainant's friend since the same was purchased under Loan Scheme which was yet to be fully repaid. There was a letter by the friend of the Complainant having made part payment of the Cost of the Vehicle. There was no proof of such transaction having taken place. Hence the Respondent was directed to pay the Claim as per the assessment of the Surveyor on a net loss basis.

**Ahmedabad Ombudsman Centre**  
**Case No. 11.004.0017**  
**Shri Pannalal M. Shethia**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 30.5.2005**

Vehicle Own Damage Claim - The Complainant's Vehicle met with an Accident and was damaged. The settlement of the Claim was for an amount which was not acceptable by the Complainant. The Reports revealed three different amounts of the estimated loss. There was no reason to deprive the Complainant from the highest of the Estimated values. A study of the activity profile of the case made it apparent that the Respondent could have settled the Claim even on their own terms earlier. Besides recovery needs to be done for the Malus (penalty for short payment of premium) Hence, the Respondent was directed to pay the highest of the estimated values less Malus premium with interest @ 8% per annum for the period of delay in full and final settlement of the claim.

**Ahmedabad Ombudsman Centre**  
**Case No. 14.002.0110**  
**Shri A. D. Solanki**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 20.5.2005**

Repudiation of Claim due to damage under Private Car Policy. The Complainant's Car was damaged. FIR and other Statements given by the witnesses named Mr. Jayantibhai as driving the vehicle. The Respondent had called for the Original Licence for verification. In reply sworn Affidavits of the Complainant was received stating that he himself was driving the car and at the time of the accident in fright; he had run away from the spot leaving behind Mr. Jayantibhai to misrepresent the matter in the FIR. To judiciously deal with the matter, legal processes of summoning the witnesses, examination and cross-examination, admission of documents, CPC etc. for which the

Institution of Ombudsman was neither competent nor is institutionally geared up; it was in the interest of fairness and justice; ordered that the Complainant should pursue his grievance in an appropriate Forum.

**Ahmedabad Ombudsman Centre**

**Case No. 11.005.0308**

**Shri Pradip B. Patel**

**Vs**

**Oriental Insurance Co. Ltd.**

**Award Dated 09.6.2005**

Motor Claim not acceptable to Complainant. The Complainant's Car was stolen. The Complainant was intimated that Rs. 25,000/- balance Claim would be paid only on transfer of ownership of the vehicle in the name of the respondent in the R. C. Book. The Complainant had enquired with the RTO Authorities who had demanded a further Rs. 20,573/- towards Road Tax since the Vehicle will have to be transferred to the name of a Company. The Respondent argued that while calculating the amount of total loss; the Balance RTO Tax payable on the Vehicle was also taken into account. Now since the right of subrogation is essential for an Insurer to safeguard its interests before theft claim of an Insured Vehicle can be settled; the position taken by the Respondent in the subject Claim was upheld with no relief to the Complainant.

**Ahmedabad Ombudsman Centre**

**Case No. 14.003.0338**

**Smt. Sitaben R. Desai**

**Vs**

**National Insurance Co. Ltd.**

**Award Dated 20.6.2005**

Repudiation of Own Damage Claim under Vehicle Policy. The Complainant's Car met with an accident. The Claim was repudiated on the ground that the Driver at the time of the Accident was not having a valid and effective Driving Licence. The Respondent's investigator had brought a letter from the RTO, Ranchi which clearly stated that the said Driving Licence was not issued by them. As such the repudiation of the Claim was upheld with no relief to the Complainant.

**Ahmedabad Ombudsman Centre**

**Case No. 14.004.0306**

**Mr. Akshay I. Patel**

**Vs**

**United India Insurance Co. Ltd.**

**Award Dated 20.6.2005**

Delay in settlement of Claim under Motor Vehicle Policy. The Complainant's vehicle was damaged and the Claim thereof was settled. The Respondent had entrusted the job of investigation to a Retired Dy. SP. At the point of settlement, it was observed that the Vehicle was in fact under Hypothecation Agreement with a Bank while the same was not mentioned in the policy File. Further Investigation was sought for. However, it was observed that the amount was accepted by the sought for. However, it was observed that the amount was accepted by the lessee in full and final satisfaction and discharge of the Claim. Hence as per precedents in law the Complainant was estopped

from reopening the issue and the Complaint dismissed without any relief to the Complainant.

**Ahmedabad Ombudsman Centre**  
**Case No. 11.005.0288**  
**Mr. Pradip B. Patel**  
**Vs**  
**Oriental Insurance Co. Ltd.**

**Award Dated 30.6.2005**

Repudiation of Own Damage Claim under Motor Vehicle Policy. The Complainant's jeep had met with an accident. The Respondent relying on their Investigator's Report repudiated the Claim on the grounds that the Insured Vehicle was plying for hire-reward at the time of the Accident. The Investigator had mentioned that the passengers in the insured vehicle have stated to the Police that they had hired the Jeep and were travelling as passengers. However, on perusal of the statements given by the passengers; it had been merely stated that they all boarded the Insured Vehicle. The statements did never contain any line to the effect that they were travelling for hire - reward. The Legal Advisor of the Respondent too had remarked that the report of hiring of the subject vehicle was merely an imagination of the Investigator and that he had not collected documents to support this imagination. Since Repudiation of a Claim cannot be based on some inference; the Respondent was directed to pay the full Claim amount.

**Ahmedabad Ombudsman Centre**  
**Case No. 11.004.0352**  
**Mr. H. D. Arora**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 08.7.2005**

Claim for accidental loss to Commercial vehicle was rejected on the ground that the driver was not holding valid licence duly renewed at the time of driving the accidented vehicle. The Complainant pleaded that vehicle was in parked condition at the time of accident. But in the claim form Complainant had mentioned that speed of the vehicle at the time of vehicle was 20 Kms. per hour. This is contradictory to parked condition. Again the spot Surveyor reported that at the time of accident, the vehicle was being driven on surkehj-Gandhinagar Road at Cross - Road when a truck dashed with it. This information was given to him by the Insured at the time of inspection. It was thus established that vehicle was being driven by a person not having valid licence (invalid due to non-renewal). So the Claim is not payable. Repudiation upheld.

**Ahmedabad Ombudsman Centre**  
**Case No. 15.002.0326**  
**R. S. Sukhadia**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 18.7.2005**

Respondent did not grant NCB when renewed the vehicle insurance for the period 2003 - 04. It was the Complainant's pleading that he is eligible for 50 % NCB as the Claim

arose prior to application of New Tariff. Respondent contended that new Rules for NCB came to operative from 1.7.2002 on introduction of GR 27, an hence Complainant is not eligible for NCB. It is observed that as per Clause (b) laid down in the GR the NCB prevailed prior to 1.7.2002 will get changed. The Insured will be entitled to an NCB from 1.7.2002 onwards till Claims arises, i.e. if no Claim is made or pending during the preceding full year of insurance and it the renewal falls due any time between 1.7.02 and 30.6.2003. The clarification issued by the Corporate Technical Deptt. of the Respondent also cross-checked. Respondent's stand for not granting NCB upheld.

**Ahmedabad Ombudsman Centre**

**Case No. 11.002.0188**

**Mr. U. K. Kothari**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 18.7.2005**

Complainant's car was covered under Motor Insurance Policy. The Car accidented on 13.10.03. The Accident Claim lodged was rejected as 'No Claim' by the Respondent on the ground of non-compliance of requirements on the part of Complainant. Complainant was asked to submit repair Bills and re-inspection Report of the Vehicle after repair. The Claim was to be settled on repair basis and not on total loss basis. The loss was assessed by the Surveyor at Rs. 23,500/- which was less than 75 % of the Insured Declared Value Another point for rejection of the Claim was expiry of fitness certificate given by the RTO Authority to the insured vehicle. The vehicle should not have ben insured in absence of fitness certificate operative on the date of insurance. The Insurer had knowledge of the year of manufacture of the vehicle and about the essential certification at the end of 15 years. So the insurance accepted by them without certification cannot be the ground for denial of the claim. The claim for Rs. 17,625/- being 75 % of assessed repair base loss was allowed to the Complainant.

**Ahmedabad Ombudsman Centre**

**Case No. 11.004.0129**

**Mr. Janaksinh K. Zala**

**Vs**

**United India Insurance Co. Ltd.**

**Award Dated 21.7.2005**

Against the amount of Rs. 76,630/- of Motor Own damage claimed by the Complainant, the Surveyor recommended Rs 57,000/- for settlement. This amount was paid after obtaining consent of the party to accept the above amount in full and final settlement of the Claim. The consent was unqualified and not obtained either fraudulently or misrepresentation or and undue influence. Supreme Court case 'United India Insurance Co. Ltd., Vs. Ajmere Singh Cotton & General Mills (1999 CCJ 1158 SC) was quoted in support of this decision to uphold the decision of the Respondent.

**Ahmedabad Ombudsman Centre**

**Case No. 11.002.0303**

**V. N. Patel**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 08.8.2005**

A Commercial vehicle got accidented on 3.4.2003 Vehicle Policy was taken by the earlier owner for the period 17.4.2003 to 16.4.2004. Vehicle was transferred in the name of Purchaser of vehicle who is the Complainant in this case as per RTO Book on 17.4.2003. As per GR 17 of India Motor Tariff Liability cover only (and not Motor Own Damage Cover) gets deemed transferred in the name of new owner. Here in this case, the Claim for motor disclaim will not become admissible. The complaint failed to succeed.

**Ahmedabad Ombudsman Centre**

**Case No. 14.002.0413**

**Smt. Vishnubhai J. Patel**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 22.8.2005**

Repudiation of Motor own Damage Claim. The Complainant's claim for reimbursement of cost of Broken Glass of his Car was repudiated by the Respondent on the plea that "Gas Kit connection fitted in the Vehicle at the material time of Accident without R T O Approval". It was observed that the Gas - Kit was of RTO Approved type and that the Kit was fitted only 2 days before the date of accident. Premiums thereof was also paid to the Respondent. The accident took place when the Car was is in parked position. Hence the decision to Repudiate the Claim was set aside and the Respondent was directed to pay the full Claim Amount.

**Ahmedabad Ombudsman Centre**

**Case No. 11.04.0408**

**Mr. Mahim Bhatt**

**Vs**

**Cholamandalam Ms General Ins. Co. Ltd.**

**Award Dated 06.9.2005**

Complainant's Three Wheeler classified under transport vehicle met with an accident. Respondent repudiated the claim on the ground that the Driver of the vehicle was not eligible to drive transport vehicles. It is observed from the copy of Certificate of Registration of the Insured vehicle that the subject vehicle was insured under the category of transport vehicle and the Driver at the time of Accident was not holding a Licence to drive such type of vehicle. Further observed that the Driver was below 20 years and he was ineligible to get the Driving Licence to ply transport vehicles under provisions of prevailing Law. Repudiation upheld.

**Ahmedabad Ombudsman Centre**

**Case No. 11.002.0389**

**Mr. Pramod S. Shah**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 06.9.2005**

Motor O. D. Claim for damages caused to the Motor Cycle on 6.11.04 by an accident. Respondent repudiated the Claim on the ground that at the material time of accident, the Complainant was not holding valid Driving Licence. Complainant argued that though his Driving Licence had been expired on 15.9.04, he had submitted renewal application with penalty for late renewal to the Designated Authority who having

accepted the payment of penalty, and hence, the renewal of licence should have to be taken w.e.f. 15.9.2004 i.e. the date on which the previous Driving Licence expired. Documents and submissions perused. It is observed that Complainant's Driving Licence had expired on 15.9.2004, and the renewal of Licence was effected w.e.f. 9.11.2004 which establishes that at the time of Accident on 6.11.2004, the Complainant was not holding valid Driving Licence. Repudiation upheld.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 11.011.0080**  
**Shri Bibhu Prasad Panda**  
**Vs**  
**Bajaj Allianz General Insurance Co. Ltd.**

**Award Dated 11.4.2005**

This is a complaint filed by Shri Bibhu Prasad under Rule 12 (1) (b) of the RPG Rules, 1998.

The case of the Complainant is as below :-

The Insured - Complainant had insured his India Car bearing Registration No. OR - 02 W - 5088 with Bajaj Allianz General Insurance Co. Ltd., Bhubaneswar Branch under Commercial Vehicle policy. The vehicle was used on hire basis at the time of accident. The vehicle met with an accident on 28.12.2003. Driver of the vehicle had the Driving Licence to drive only Light Motor Vehicle at the time of a accident.

Insurer repudiated the claim as the driver was not authorized to drive the commercial vehicle / transport vehicle. Hon'ble Ombudsman uphold the repudiation as complainant admitted that vehicle was used as taxi at the time of accident. More over, Hon'ble Orissa High Court in their judgement M. A. No : 236 of 1996 (O.I.C. - Vs. P. K. Dalai) held that driving a transport vehicle in contravention of sub section - I of sec - 3 of Act is prohibited.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 14.002.0052**  
**Shri Kartik Nayak**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 18.4.2005**

This is a complainant under Rule 12 (1) (e) of the RPG Rules, 1998.

The details of the complaint is as below :-

The Insured - Complainant Kartik Nayak had insured his Tata truck bearing Registration No. OR - 09 A / 3875 with New India Assurance Co. Ltd. Bhadrak Branch. The said truck met with a fatal accident on 02.07.2003 resulting extensive damage to the vehicle and death of driver and helper. Surveyor has submitted the status report assessing the loss for Rs. 2,55,000/- considering the outwardly visible damages.

Insured value of vehicle was for Rs. 375,000/-. Insurer advised the complainant to dismantle the vehicle as the vehicle was very much repairable as per opinion of surveyor. Complainant requested the insurer to settle the claim on total loss basis or in cash loss basis as he has no money to repair the vehicle. Insurer insisted on to dismantle the vehicle.

During Hearing complainant submitted the photographs of damaged vehicle which proved that not only the damage was extensive but beyond repair. The estimate

submitted by complainant is double the insured value. Considering the pecuniary problem of complainant and extensive damage of vehicle Hon'ble Ombudsman directed the Insurer to pay Rs. 300,000/- to the complainant on total loss basis.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 11.004.0023**  
**Mrs. Kiranbala Nayak**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 24.5.2005**

Complainant's Ashok Leyland bus bearing No. OR - 02 A - 9097 was insured with the United India Insurance Co. Ltd., Mancheswar Branch for the period from 01.12.2001 to 30.11.2002. The said vehicle met with an accident on 09.06.2002. Insured complainant lodged a claim for compensation of Rs. 48,723 final surveyor assessed the loss an amount of Rs. 12,800/-. Insurer repudiated the claim on the ground that driver Shri Biswanath Sahu had no effective Driving Licence at the time of accident.

The parties was heard on 19th April, 2005. The Complainant submitted that she had employed Shri Sahoo as driver verifying the D/L no : 228 / 2000 issued by R.T.O., Bhubaneswar. The Insurer submitted that original D/L issued by RTO, Balasore vide D/L No. : 724 / 91 is a fake one on verification. But subsequent renewal done by RTO, Bhubaneswar was in order.

Insurance Ombudsman directed the insurer to pay Rs. 12,800/- on the basis of Apex court decision on United India Insurance Co. Ltd. - Vs. Lehu & Otrhers (2003) 3 SCC 388) and National Insurnace Co. Ltd. - Vs. Swaran Singh & others (SLPCC) 9027 of 2003.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 14.005.0076**  
**Shri Aloke Kumar Sahoo**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 26.5.2005**

The Complainant had insured his Bolero Vehicle bearing Registration No. OR - 02 Z - 8595 with New India Assurance Co. Ltd. The Vehicle met with an accident on 15.08.2004. Surveyor of Shri B. K. Mohapatra surveyed the vehicle in the garage and advised the complainant to repair the vehicle except the body shell which can be repaired. Repairer wrote to the complainant that body shell can not be repaired only replacement can bring back the vehicle to its original position. As there is no unanimity between the surveyor and repairer regarding the body shell repairing and replacement complainant's claim settlement was delayed.

During the Hearing insurer agreed to allow the replacement of body shell with a deduction of Rs. 15,000/- towards salvage.

Hon'ble Ombudsman directed the Insurer to replace the body shell and retain the salvage with them.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 11.005.0019**

**Smt. Santilata Acharya  
Vs  
Oriental Insurance Co. Ltd.**

**Award Dated 08.6.2005**

Complainant's Tata Mini bus bearing No OR - 06 C - 9431 was insured with Oriental Insurance Co. Ltd., Angul Branch. During the Policy Period, the bus met with an accident on 10.07.2003 due to which conductor of bus died and passengers got injured. The surveyor has assessed the loss for Rs. 45,000/-. Insurer repudiated the claim on the ground that bus was carrying 80 passengers against carrying capacity of 44 and due to that over loading the accident happened. During the Hearing Complainant stated that accident happened due to lost of balance of driver while negotiating a cow suddenly straying into the road. Insurer submitted a news paper cutting of Samaj Oriya daily which stated that there were 80 passengers on the board at the time of accident.

Investigator of insurer stated in his report that there were 50 to 60 passengers as he came to know from the local people but he has not furnished the name of the persons he had contracted no recorded their statements.

On verification of R.C. book it is known that but was permitted to carry 44 passengers but insurer in his policy stated that bus can carry exceeding 36 passengers but not exceeding 60 passengers.

Hon'ble Ombudsman directed the insurer to pay Rs. 45,000/- with 6 % interest as the investigator had stated in his report 60 passengers were there at that time which has been permitted by the insurer in their policy copy.

**Bhubaneswar Ombudsman Centre  
Case No. I. O. O. / B.B.S.R. / 14.005.0069  
Shri Basudev Dash  
Vs  
Oriental Insurance Co. Ltd.**

**Award Dated 14.6.2005**

Insured complainant insured his Tata Mini bearing No : OR 02 - AB - 1057 with Oriental Insurance Co. Ltd. On 17.07.2004 the vehicle met with an accident near Masthura of Ganjam district. Surveyor assessed the loss for Rs. 48,000/- against an estimate of Rs. 90,068/-. Insurer repudiated the claim on the ground that driver did not have the effective driving licence.

During Hearing insurer submitted that on verification of D / L of Shri Kedar Behera at Ahmedabad RTO who first issued D / L No : 38391 / 77 was fake as 1997 series of D / L was six digit number. There was official letter from the concerned RTO regarding this.

The Insurer tried to verify the Driving Licence which was renewed by RTO, Chhatrapur bearing the Licence No. 834 / 81 stands in the name of Kedar Behera. RTO, Chhatrapur vide their letter dated 20.09.2004 stated that relevant record of said D / L is torn so, they can not issue a certified copy.

Insured complainant was awarded Rs. 48,000/- along with 6 % interest insurer had signally failed to prove that D / L No : 38391 / 77 / 834 / 81 issued by RTO Ahmedabad and RTO Chhatrapur is fake.

**Bhubaneswar Ombudsman Centre**

**Case No. I. O. O. / B.B.S.R. / 11.002.0015**  
**Shri Nikunja Kumar Mohanty**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 12.7.2005**

Insured Complainant insured his Maruti car bearing Registration No. OR - 05 G - 5577 which met with an accident on 02.06.2003 at 6.30 P. M. near DAV Square, Bhubaneswar. Though surveyor has assessed the loss for an amount of Rs. 11,100/- but recommended for repudiation as the damages were old and inconsistent with nature of accident. Insurer repudiated the claim on the ground that garage owner and mechanic of garage where the vehicle was repaired stated in writing that vehicle was not in a movable condition prior to the accident date stated by complainant.

The parties were heard on 17.3.05, 15.04.05 and 27.07.05. During the hearing insurer produced an affidavit from the mechanic regarding his written statement made earlier but failed to produce the owner of garage and mechanic physically. The Complainant admitted the signature of garage owner but disputed on the date and time mentioned by him in that written statement.

Hon'ble Ombudsman uphold the repudiation as the damaged was caused prior to the evening of 02.06.03 and complainant having not come in clean hands regarding the date and time of a accident.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 11.004.0030**  
**Shri Shisira Kumar Rout**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 14.7.2005**

Complainant's Tata Truck bearing Registration No. OR - 05 / L - 3155 was insured with United India Insurance Co. Ltd., Satya Nagar Branch under Motor Policy for the period from 27.02.2002 to 26.02.2003. On 3.1.2003 while the Truck was plying from Kuhuda to Sundargarh met with an accident near Chhata Canal bridge. The surveyor had assessed the loss for Rs 238,000/-. Insurer sat over the file as the signature of the insured is different from the signature appearing in R.C. Book and in claim form. During the hearing insured stated that due to fracture in his finger his signature differs and insured was directed to bring the voter identity card and driving licence for his identity and insurer was directed to bring their Development officer who has procured the business.

Development officer has identified the insured and insured submitted the photo identity card and driving licence which has proved the identity of insured. Hon'ble Ombudsman directed the insurer to pay 238,000/- as assessed by the surveyor.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 14.002.0032**  
**Shri Pravin Kumar Patel**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 08.8.2005**

Insured complainant Shri Pravin Kumar Patel insured his Luna Super bearing No. OR - 05 E - 9534 from New India Insurance co. Ltd. for the period 18.08.98 to 17.08.99. Insured complainant's father while going inside his granite factory kept his vehicle in front of the main gate on 18.08.2003 at 3 p.m. When he returned from the factory on 18.08.2003 at 3.30 p.m. he did not find his vehicle and there after lodged an F.I.R. with Jagatpur P.S. Insurer treated the claim as no claim as the complainant failed to produce the required document Subsequently insured submitted the required document and requested the insurer to settle the claim. Insurer delayed the settlement of the claim. Surveyor assessed the loss for Rs. 10,000/- and stated the incident was genuine. During the hearing insurer stated that insured suppressed the fact that insured did not disclose the previous insurance of that vehicle and theft might have occurred during un-insured period of vehicle.

Honble Ombudsman. Directed the insurer to pay Rs. 10,000/- as insurer failed to prove that theft took place during the gap period of insurance. As the insured complainant promptly lodged an F.I.R. with the police authorities which has fortified his credibility.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 11.002.0028**  
**Shri Bharat Sahu**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 9.9.2004**

Insured complainant insured his commander jeep OR - 16 A - 3102 with New India Assurance for the period 01.10.2002 to 30.09.2003 under commercial vehicle insurance policy. Insured vehicle met with an accident on 19.04.2003 while plying from Bamra to Dharuadihi. As per the FIR lodged by Gramrakshi Muna Singh was driving the vehicle who happened to be the helper of that vehicle. Final policy report submitted by the police stated that Ratnakar Nath was driving the vehicle at the time of accident accordingly charge sheet was issued against. Mr. Ratnakar Nath. Muna did not have the valid driving Licence. Accordingly insurer repudiated the claim as the Muna Singh was driving the vehicle at that time.

Muna Singh filed an affidavit that Ratnakar Nath was driving the vehicle at the material time of accident he was the helper of that vehicle. Police authorities recorded the statement of injured passengers under section 161 of Cr. P. C. and after investigation charge sheeted Ratnakar Nath.

During hearing complainant stated that Ratnakar Nath was the driver, holding the valid D / I at the time of accident driving the vehicle.

Insurance Ombudsman directed the insurer to settle the claim for an amount of Rs. 52,500/- as assessed by the surveyor within fifteen days of receipt of consent letter from the complainant.

**Bhubaneswar Ombudsman Centre**  
**Case No. I. O. O. / B.B.S.R. / 14.005.0016**  
**Smt. Sushila Jain**  
**Vs**  
**Oriental Insurance Co. Ltd.**

**Award Dated 09.9.2005**

Insured complainant had obtained a comprehensive motor policy from Oriental Insurance Co. Ltd. to cover her Santro Car. On 17.05.2003 insured car while plying from Pithapur to Dolamundai met with an accident. Insured complainant submitted an

estimate of Rs. 30771.58 towards repairing of the vehicle Surveyor inspected the vehicle on 25.05.2003 but did not confirm any thing about repair Insured complainant without repairing the vehicle took away from the garage for her use.

Surveyor Shri S. K. Dash submitted his survey report stating the damages were old and inconsistent with the nature of accident. Again that vehicle met with an accident and insured complainant lodged the second claim for Rs. 52,397/- without mentioning the date and place of accident. Insurer appointed Shri S. K. Dash and Shri S. K. Panda for Joint survey. Both the surveyors found that damages were old and inconsistent with the nature of accident. Insurer repudiated the claim on the strength of survey report and Insured complainant committed the breach of policy condition by using the vehicle without effecting any repair after the alleged first accident.

During the Hearing insured complainant's representative stated that second accident took place on 13.11.2003 but failed to substantiate with the documentary evidence. Complainants representative stated that as the car was in running condition they took the car for their business purposes without effecting any repair.

Insurance Ombudsman uphold the repudiation and pass nil award as the complainant violated the policy condition by using the vehicle without repairing it and failed substantiate second accident.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 146 / NIC / 11 / 05**  
**Shri Hardev Singh**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 13.4.2005**

**FACTS :** Shri Hardev Singh got his truck insured from BO Mullahpur for the period 6.4.03 to 5.4.04 for sum insured of Rs.3.5 lacs. The vehicle met with an accident on 29.7.03. He lodged the FIR and also informed the insurer. A surveyor was deputed to assess the loss. He filed the claim on 18.8.2003 which was repudiated as "No Claim" in view of false declaration regarding NCB.

**FINDINGS :** The policy was renewed from 6.4.02 to 5.4.03 by BO Ludhiana. Subsequently, when it was renewed by BO Mullanpur NCB @ 45 percent was claimed. The BO Mullanpur sought confirmation regarding entitlement of NCB from B.O Ludhiana vide letter dated 16.5.2003. It was reported on 10.11.2003 that complainant had availed of a claim during the currency of the previous policy which was not disclosed at the time of renewal by BO Mullahpur. The claim was repudiated in view of wrong declaration regarding NCB entitlement, as per provisions of GR 27 of Indian Motor Tariff. No proposal form was filled up, as it was a case of renewal and there was no gap in the policy. NCB entitlement was not verified in time. A registered letter was sent to the previous insuring office for confirmation of NCB entitlement, but no reply was received. The report was obtained after the accident. However, there was nothing on record to establish that the complainant had claimed NCB @ 45 percent.

**DECISION :** Held that the insurer failed to comply with the provisions of GR 27 strictly. NCB entitlement was not verified in time. The insured may also be guilty of having made a false verbal statement about NCB entitlement. Ordered that in view of lapses on the part of insurer as well as the insured, the claim be settled on non-standard basis by admitting the liability to the extent of 50 percent.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 93 / NIC / 14 / 05**

**Shri Subhash Aggarwal  
Vs  
National Insurance Co. Ltd.**

**Award Dated 21.4.2005**

**FACTS :** Sh. Subhash Aggarwal got his scooter bearing registration No. HR 32-8709 insured from BO Narwana for the period 30/1/2001 to 29/1/2002 for sum insured of Rs. 18,000/-. It met with an accident on 29/1/2002. The Branch Office rejected the claim on the ground that he did not possess a valid and effective DL on the date of accident. He sent an attested copy of DL in December, 2003, but still the claim remained unsettled.

**FINDINGS :** The DL was issued by the licencing authority Hansi on 17.12.1986 for scooter/mc/car/jeep. It was renewed from 18.12.1991 to 16.12.1996 and again upto 16.12.2001. Subsequently he got it renewed from 2.5.2003 to 16.12.2006. For the intervening period from 17.12.2001 to 1.5.2003 during which the accident took place, the complainant had no valid DL. However, he had duly deposited Rs. 150 as fee for renewal on 11.12.01 in the office of Licensing Authority, Narwana, but the licence was not renewed. This was confirmed by Licencing Authority, Narwana. The complainant contended that his papers were misplaced in the office of Licencing Authority, Narwana for which he was not to be blamed. He, therefore, filed another application for renewal of licence with Licencing Authority, Hansi which had issued the licence originally.

It was noticed that under Section 15 of MV Act the licensee is required to apply for renewal within 30 days after the date of expiry. If he does so, the renewal would be deemed to be effective from the date of expiry of earlier licence. In the instant case the complainant applied in time.

**DECISION :** Held that the complainant was not in possession of a valid licence on the date of accident but as per record he had applied for renewal within the prescribed time. Therefore, he would be deemed to be in possession of a valid licence on the date of accident. The insurer was, therefore, directed to settle the claim on merits.

**Chandigarh Ombudsman Centre  
Case No. GIC / 123 / UII / 11 / 05  
Shri Avtar Singh  
Vs  
United India Insurance Co. Ltd.**

**Award Dated 27.4.2005**

**FACTS :** Sh. Avtar Singh got his Jeep no. PB 53-951 insured for the period 29.12.2002 to 28.12.2003 for sum insured of Rs. 1,80,000. The vehicle met with an accident on 18.9.2003. The surveyor assessed the loss at Rs. 1,23,000 on repair basis, 1,24,500 on total loss basis and 1,02,500 on net of salvage basis. After investigation, the driving licence of Sh. Mohinder Pal Singh, the driver, was found to be fake. The claim was, accordingly, repudiated.

**FINDINGS :** Shri Mohinder Pal Singh had earlier served as a driver with the complainant from 1998 to 2002. At that time he had a valid licence issued by LA Amritsar. Later he joined another company in U.P and reportedly lost the licence issued by LA Amritsar. He got another licence through an agent in Haldwani. The driver was again hired by the complainant in August, 2003. His licence was, however, not checked. He presented to the surveyor the licence purported to have been issued by L.A Haldwani, details of which were also given on the claim form signed by the complainant. On verification the licence issued by licencing authority, Amritsar was found to be genuine. It was, however, stated that as per provision of Section 6 of the

Motor Vehicles Act, no person could, while he held a driving licence for the time being in force, hold another driving licence.

**DECISION** : The material question in so far as the settlement of claim is concerned is whether the driver had a valid and effective licence on the date of accident. The insured clarified that driver's licence was lost which on verification by the insurer was found to be genuine. He, however, got another licence issued from RTO Haldwani which proved to be fake. Therefore, for all intents and purposes this licence was a nullity. Even if it was found to be genuine, the violation of M.V. Act was not material qua indemnification of loss. The insured was not careful enough to have given particulars of the genuine licence held by the driver.

Held that having regard to the facts and circumstances of the case, ends of justice would be met by settling the claim on non- standard basis by admitting liability to the extent of 2/3<sup>rd</sup> of the assessed loss.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 196 / NIC / 11 / 05**  
**Shri S. K. Mittal**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 24.5.2005**

**FACTS** : Shri S.K Mittal filed a complaint against repudiation of accident claim of his car which he purchased from Shri Harjit Singh on 9.12.03. Car was got insured by the previous owner for the period 23.1.03 to 22.1.04. It met with an accident on 10.1.2004. The claim filed by Shri S.K. Mittal was repudiated on the ground that there was no contract with him. The complainant contended that the claim was repudiated despite the fact that the previous owner had endorsed on claim form that the claim be paid to him.

**FINDINGS** : On the date of accident registration as well as insurance cover were in the name of Shri Harjit Singh. Shri Harjit Singh recorded on the claim form that the claim be paid to Sh. Mittal, as the car was sold to him. The insurer took the plea that as per GR 17 of Motor Tariff, the buyer is required to apply for transfer of policy in his name within 14 days. On receipt of such a request, the underwriting office works out additional premium, if any, on account of difference in the NCB of previous owner and thereafter the policy is transferred. The contract comes into effect after the transfer of policy. Since these formalities were not completed by the complainant, neither the previous owner nor the complainant had any insurable interest.

**DECISION** : Held that in the absence of transfer of RC as well as the policy in the name of the complainant, the complainant had no insurable interest. He, therefore, had no locus standi to file the claim as he was not the insured person. The complaint was, accordingly, dismissed.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 102 / OIC / 11 / 05**  
**Shri Jatinder Kumar**  
**Vs**  
**Oriental Insurance Co. Ltd.**

**Award Dated 14.7.2005**

**FACTS** : Shri Jatinder Singh took a Motor Package policy for the period 12.11.03 to 11.11.04 for his truck bearing number PB-29-9639. It met with an accident on 31.03.04. The claim filed by him was treated as "No Claim" by DO Pathankot, as NCB declaration

was found to be false. He contended that he had not given any wrong information regarding NCB and was prepared to deposit additional premium, if any.

**FINDINGS** : It was noted that 50% NCB was allowed on the basis of alleged declaration in the proposal form. Complainant gave intimation about accident near Dhariwal on 31.3.04. The insurance cover was initially taken by one Shri Gurdev Singh from whom the complainant had purchased the truck. The complainant was not entitled to any NCB as under GR 27 of IMT, NCB follows the fortune of the insured and not the vehicle or the policy. The claim was, accordingly, repudiated as benefits under section 1 of the policy are forfeited in the event of a false declaration. However, NCB was granted allegedly by the Development Officer on verbal confirmation about the insured's entitlement. The underwriting office failed to verify the previous covernote. The insured clarified that he had not signed any proposal form. His representative gave the cover note number for the earlier period and on that basis a fresh cover note was issued.

**DECISION** : The stand taken by the insurer is devoid of any merit. It is a case of wrongful grant of NCB without following procedure or obtaining declaration from the insured. As the complainant purchased a second-hand vehicle, only the previous owner was entitled to NCB, if any. It was absurd to allow NCB to the insured on the basis of a cover note number of the previous owner. Verification of NCB subsequently was equally unwarranted, as the complainant was not entitled to any NCB. Further, repudiation of claim on the basis of non-existent declaration is untenable. It is simply a case of wrongful grant of NCB, for which insured cannot be held responsible. Held that having regard to the totality of circumstances, the claim be settled on non standard basis by admitting 70% of liability after recovering premium to the extent it was paid short by the complainant initially on account of wrongful grant of NCB.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 59 / NIC / 11 / 05**  
**Shri Tej Singh**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 26.7.2005**

**FACTS** : Shri Tej Singh purchased TATA Indica bearing No. HR 51 L 3310 in an open auction conducted by Excise and Taxation Department, Haryana on 28.8.2003. He got it insured from BO Faridabad w.e.f 4.9.2003. The vehicle met with an accident on 8.3.2004. He got it repaired from Tayal Motors, Faridabad. The surveyor assessed the loss, but the claim was repudiated on the ground that he did not have any insurable interest as RC was still in the name of Shri Shyam Sunder Bhatia, the previous owner.

**FINDINGS** : While getting the vehicle insured, the complainant had disclosed that he had applied for transfer of RC in his name through Deputy Excise and Taxation Commissioner. The policy was, accordingly, issued in his name. However, SDM Faridabad refused to transfer RC in his name since the auctioned vehicle was a financed vehicle and the financier held lien on the property. However, at the time of auction he was informed that the vehicle was unencumbered. He was at his wit's ends, as the RC was not transferred in his name, despite the fact that he had paid the auction money. He, therefore, filed a civil suit in the court of Civil Judge Faridabad praying that SDM Faridabad be directed to transfer RC in his name.

**DECISION** : It is amply established that complainant is the rightful owner of vehicle. It is for the Excise & Taxation Deptt to settle the matter with financier having recovered from the complainant the auction money fully. The material question qua the insured is

whether he has any insurable interest or not. The vehicle was insured in his name. It is in his possession and he purchased it in open auction conducted by Excise & Taxation Deptt. Transfer / Registration of vehicle is only a means to update the Government record with regard to ownership. He duly applied for it but the matter is embroiled in controversy with regard to interest of financier and will take time for settlement. The insurer was fully aware at the time of issue of policy that RC was not in the name of the proposer, but the insurance cover was issued. It is settled law that it is the duty of insurer to satisfy itself before issuing the policy that the proposer has an insurable interest. In the instant case there is no doubt about purchase of vehicle by the complainant through auction and grant of insurance cover to him. The complainant is being held to ransom on the one hand by Excise & Taxation Deptt. which has failed to resolve the matter with the financier and on the other by insurer by not admitting the liability. Held that having paid the bid money in an auction for the vehicle and being in possession of the same, the complainant's insurable interest cannot be disputed. Hence, the claim is payable.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 41 / OIC / 11 / 06**  
**Shri Davinder Singh**  
**Vs**  
**Oriental Insurance Co. Ltd.**

**Award Dated 15.9.2005**

**FACTS :** Shri Davinder Singh got his crane insured from BO Karnal for the period 30.5.04 to 29.5.05 for sum insured of Rs. 3 lakh. The crane met with an accident and suffered damage due to overturning. It was duly surveyed and the complainant claimed to have spent Rs. 40,000 on repairs. He submitted bills in the branch office. The claim was, however, filed as 'No claim' on the plea that accident on account of overturning was not covered under the policy. He contended that he was not aware of any such clause or condition, as copy of policy was never furnished to him.

**FINDINGS :** The policy in question is a specified perils policy which covers fire, burglary, riot and strike, earthquake, flood, typhoon, damage due to accident and damage in transit but not the risk on account of overturning of certain specified machinery including cranes. Coverage of risk due to overturning is, however, permissible on payment of additional premium. Since additional premium was not paid, the repudiation of claim was stated to be in order. The complainant stated that he was not given the option to pay extra premium to cover eventuality of overturning, nor such an exclusion was indicated in the policy bond.

**DECISION :** Held that there has been serious slip up on the part of underwriting office. The exclusion was not incorporated in the schedule nor the insured was given the option to pay extra premium to cover such contingent loss. Ordered that claim be settled as per loss assessed and additional premium recovered from the complainant as per rules.

**Chandigarh Ombudsman Centre**  
**Case No. GIC / 76 / OIC / 11 / 06**  
**Shri Luv Puri**  
**Vs**  
**Oriental Insurance Co. Ltd.**

**Award Dated 27.9.2005**

**FACTS :** Shri Luv Puri got his car bearing no. JKR 4333 insured from BO Jammu for the period 28.5.04 to 27.05.05 for sum insured of Rs. 30,000. While he was traveling from Nagrota to Bari Brahmana on 23.8.04, the car met with an accident. The loss was assessed for Rs. 7084 after deducting excess clause of Rs. 5000. The RC for the vehicle was renewed by RTO Jammu w.e.f 29.07.02 to 28.07.07 incorporating a condition that vehicle will ply out of Jammu city. The claim was rejected on the ground that at the time of accident car was plying in municipal area, Jammu, which was not permitted as per RC.

**FINDINGS :** The complainant contended that there was no restriction in the cover regarding plying of car in the municipal area, Jammu. In any case, he was going to Bari Brahmana which is a non-municipal area, but he had to pass through Jammu city. On behalf of the insurer it was stated that since the accident had taken place in Jammu, the claim was rightly repudiated in view of restriction imposed in the RC. The perusal of policy indicated that the geographical scope for vehicle was indicated as India.

**DECISION :** The restriction imposed by RTO Jammu does not make any sense, as the purpose was not explicit. Be that as it may, in so far as the contract between the parties is concerned there is no such limitation. Held that repudiation of claim on a flimsy ground was without merit. Ordered that claim be paid as per loss assessed.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.8.1346 / 2004 - 05**  
**Mrs. Rajam**  
**Vs**  
**Royal Sundaram Alliance Insurance Co. Ltd.**

**Award Dated 13.4.2005**

Mr. Rajenderan, insurer his TVS moped for a sum insured of Rs. 16,000/- for the period 24.9.2002 to 23.9.2003. for the Owner cum driver, the PA cover was extended for Rs. 1 Lac under the Motor Policy.

On 22.10.2002, the vehicle met with an accident when the insured was driving the vehicle. It collided with on coming Hero Honda vehicle The accident was reported to Sivakanchi Police station and the insured died at the Government Hospital, Chennai on 23.10.2002. Based on the Xerox copy of the Driving Licence produced by the complainant, the own damage claim was settled for Rs. 1100/- on 8.8.2003 by the insurer.

However, the insurer insisted the original driving licence for verification for settling the P.A. claim to the legal heirs of the insured. The complainant expressed her inability to produce the Original Driving Licence, as she did not know where it was given by her late husband.

In the meantime, the insurer approached the High Court, Chennai by a writ petition and the Hon'ble Single judge gave a direction to the Licencing Authority to confirm about the validity of the Driving Licence. As the matter has already become subjudice, if the DL is proved to be genuine the insurer were directed to settle the claim for Rs. 1 lac with interest and if RTO's conformation is proved to be otherwise, the complainant will have no remedy. Accordingly the case was decided.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.02.1399 / 2004 - 05**  
**Mrs. A. G. Sivaraman**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 9.5.2005**

Mrs. A. G. Sivaraman purchased a car from the seller which was covered under the policy issued by New India, Chennai. The Vehicle has been transferred in the name of the buyer in the R. C. book on 28.06.2004. The Policy was transferred in the name of the purchaser on 7.7.2004. The vehicle met with an accident on 3.7.2004 (before the name transfer was effected in Insurance) and the insurer repudiated the claim that on the date of the accident the purchaser had no insurable interest.

It was observed by this forum that the R. C. was changed in the name of the purchaser on 28.6.2004 and the policy was transferred within the stipulation of 14 days from the date of sale, as reflected in the R. C. The name transfer was also effected in the Insurance. Hence, direction was given to the insurer to process the claim and settle it with the purchaser.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.05.1427 / 2004 - 05**  
**Shri V. Ganesan**  
**Vs**  
**The Oriental Insurance Co. Ltd.**

**Award Dated 16.5.2005**

Shri V. Ganesan complainant, insured his vehicle TN 09 AH 3505 Cargo Carrier with Oriental Insurance Co. Ltd., Chennai for the period 20.8.2004 to 19.8.2005. The vehicle met with an accident on 30.12.2004, FIR was filed and survey also conducted. The Insurer have repudiated the claim that the driver Mr. Karunanithi is not having valid Badge authorized to drive Goods Carrying. The Insurer also mentioned as per MV Act Badge is one of the basic requirements. The Insured paid advance monies to Driving School on 13.12.2004 for securing badge but there was delay in remitting the money to RTO by the Driving School. The Insured confirmed that there is no permit is required for the vehicle.

On scrutiny of the papers it is established that the vehicle was LMV and the driver was holding LMV licence and badge for driving transport vehicle has been endorsed on 18.2.2005. Though the vehicle used for transporting goods, it was admitted position that it does not require permit. The Supreme Court held where the vehicle is LMV and no proof to show that there was a permit for the vehicle, LMV licence would suffice and even transport vehicle endorsement is not necessary. The contention of the insurer is that there is no badge on the date of accident, but the badge is only as addition on the basis of Tamil Nadu Motor Vehicle Rules with regard to knowledge of language, first aid, etc., In recent consumer case the State Commission had held merely for absence of badge a claim could not be repudiated when the driver otherwise held a valid licence. Therefore, the insurer were directed to process and settle the claim.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.03.1408 / 2004 - 05**  
**Mr. Parveen Kothari**  
**Vs**  
**The National Insurance Co. Ltd.**

**Award Dated 16.5.2005**

Mr. K. Raja insured his vehicle, Toyota qualis bearing Registration no. TN 04 W 7332 with National Insurance Co. Ltd., Chennai for a sum insured of Rs. 4,48,000/- for the period from 7.8.2002 to 6.8.2003 and sold the vehicle to Mr. Gnana Smabhandam on 22.11.2002, who approached the insurer on 2.12.2002 for transfer of insurance in his

favour and the transfer was effected. The Vehicle met with an accident on 28.11.2002 and Survey was conducted by licenced surveyor. The Insurer issued two work orders dt. 19.6.2003 and 16.12.2003 to M/s Car Park, Ambattur. After carrying out the repair work, re - inspection and satisfaction note from Mr. Gnana Sambhandam the vehicle was released by the repairer and submitted the credit bill dt. 9.1.2004 to the insurer for payment.

The insurer diown the liability on 29.4.2004 addressing a letter to Mr. Gnana Sambhandam, on the ground that the accident occurred on 28.11.2002, but the insurance was transferred in favour or purchaser only on 2.12.2002 The Insurer pointed out that the insured had not revealed the damage to the vehicle at the time of transfer. Further, the insurer pleaded that the vehicle was purchased on 28.10.2002, whereas the transfer was effected only on 2.12.2002 and the number of days taken by the purchaser for transferring the vehicle in his favour has crossed the allowable time limit as per GR of Motor Tariff.

The documents were perused by the forum. It is observed the loss was inspected by the licenced surveyor and the work order was issued after 7 months from the date of accident and there was sufficient time to analyse the claim papers. As per the terms of work order the insurer is bound to settle the claim and the insurer could not go against the terms of reference of work orders. It is also established that the final payment towards purchase of the car was effected by the purchaser only on 24.11.2002 and hence the number of days as per GR 17 provision, as per Motor Tariff has to be counted only from this date of 24.11.2002. The transfer was effected on 2.12.2002 which falls within 14 days from the date of sale on 24.12.2002. Hence, direction was given to Insurer to process and settle the claim to the repairer.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.02.1018 / 2005 - 06**  
**Mrs. M. Deepak**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 21.6.2005**

The New India Assurance Co. Ltd., Divisional Office covered a vehicle bearing Registration No. TN 07 Aa 2224 for the period 1.4.2004 to 31.3.2005. Mr. M. Deepak submitted a proposal on 14.9.2004 and name transfer was effected. The Vehicle met with an accident on 5.9.2004 (before the name transfer) and surveyor was deputed 8.9.2004. The Survey Report was also obtained by the Insurer and as per the Survey Report the Transport Authority, Chennai had transferred the ownership 3.9.2004 in favour of Mr. M. Deepak. The Insurance Company repudiated the claim on the ground that on the date of accident 5.9.2004 the policy was not in the name of the claimant Mr. Deepak and he was not having insurable interest in the vehicle. The Insured represented that the transfer of insurance of policy has been effected within 14 days from 3.9.2004 allowable under the Motor Vehicle Act and hence the claim is payable.

The Insurer represented that the Policy was in the name of original Owner Smt. Chandra Lakshmi Kanth and the vehicle was sold on 28.4.2004 to Mr. Satheesh Kumar (5 months before the date of accident.) As per the documents produced before the forum, it is observed that vehicle would have been passed on from Mr. Satish Kumar (who pruchased the vehicle from original owner) to Mr. Ashok as per delivery note dt. 24.8.2004. The complainant has confirmed that he has puchased the vehicle from Mr. Ashok. Therefore, the vehicle was sold by the original owner (Mrs. Chandra Lakshmi Kant) to Mr. Satheesh Kumar, which changed hands to Mr. Ashok from whom the

vehicle was sold to complainant Mr. Deepak. These Transfers were not recorded in the policy. The supreme court held that the transferee does not follow the procedure under sec. 157 to intimate and get the policy transferred is not entitled to claim. Further the 14 days is not applicable in this case, since the interest of Mr. Saheesh Kumar and Mr. Ashok was not recorded under the policy. Under these circumstances, this Forum could not find fault with the insurer.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.03.1004 / 2005 - 06**  
**Dr. S. Balkrishnan**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 24.6.2005**

Dr. S. Balkrishnan insured his vehicle TSH 0303 - 1987 model with The New India Assurance Company Ltd., Chennai for the period from 1.4.2003 to 31.3.2004 and enjoying No Claim bonus of 65 % The vehicle was sold on 29.8.2003. He purchased a new vehicle and insured the same with National Insurance Co. Ltd., New Delhi from 29.9.2003 to 28.9.2004. The National Insurance Co. Ltd., has allowed the NCB on prorata from 31.3.2004 to 28.9.2004 on the basis of NCB certificate issued by previous insurer The New India Assurance Co. Ltd., The Insured has represented to allow the NCB for the whole policy period from 29.9.2003 to 28.9.2004. The Insured admitted that he submitted the confirmation certificate of NCB 65 % from New India and he did not inform the insurer immediately about the sale and it is responsibility of the buyer to inform the insurer.

The representative of National Insurance Co. Ltd., stated that 65 % NCB was allowed by them from 31.3.2004 as the previous Insurer confirmed that the insured was enjoying NCB till 31.3.2004. The representative of New India Assurance Co. Ltd., has stated that the sale of the vehicle was not intimated to them immediately and the same was received by them only in April 2004 i.e. after the expiry of the policy, which meant the NCB was continued to be enjoyed by the insured till that date 31.3.2004 and also contented that simultaneously 2 vehicles could not enjoy the NCB. New India has also stated that if they were informed about the sale of the vehicle, they would have recovered the NCB from the buyer.

The documents submitted by the parties concerned were purchased and the forum has observed that the complainant has committed a mistake of non-intimation of sale of the vehicle to the insurer in time and the insured's argument that he is not responsible for the inaction on the part of the purchaser is not justifiable. Further the complainant fails to prove documentarily that the purchaser had covered the vehicle under a separate policy from the date of its sale. In the absence of the same this forum could not find fault with the insurer in disallowing the NCB for the period under dispute.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / 11.05.1013 / 2005 - 06**  
**Shri S. Ramachandran**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 11.8.2005**

Mr. S. Ramachandran, Chennai has insured his TVS Champ 1999 Motel bearing Registration No. T N 10 A 1164 under Motor Comprehensive Policy with The New India Assurance Co. Ltd., Anna Nagar, Chennai under Policy No. 712900 / 31 / 01 / 15450

for the period from 20.11.01 to 19.11.2002 for the Sum Insured of Rs. 13,000/-. The vehicle was reported to have been stolen on 3.12.2001. The matter was reported to Police and FIR was filed on 4.12.2001 and the case was registered by the Police under Section 379 IPC. The non traceable certificate was issued by the Police on 14.6.2002. The Insured intimated about the theft of the vehicle on 29.1.2003 to the Insurer and the duly completed claim form was submitted to the insurer on 31.1.2003. The Insurer also arranged for investigation. The Insurer repudiated the claim that the policy expired on 19.11.02, the insured submitted claim form after the lapse of 13 months of the theft and the policy condition says that immediate notification of the loss is a must.

The Forum perused the documents. The Investigator has confirmed the genuineness of the claim and pointed out that the insured is an innocent and illiterate and did not submit the claim form in time, but he did these things without any intention. The vehicle was inspected at the time of assumption of risk hence there is no doubt the existence of the vehicle at the time of assuming the risk the theft of the vehicle was substantiated by various documents like FIR, Non traceable Certificate, Investigation Report etc., the delay in intimation of the claim after one year is no doubt a grave mistake committed by the Insured, but it is a procedural delay. The Insurer has ascertained the market value through M/s A S N Arya & Co as per the valuation report the value was fixed at Rs. 7,000/-.

As the genuinity of the claim is not under suspicion, this forum directed the insurer to settle the claim in ex-gratia basis at 75 % of the market value as assessed by the surveyors.

**Chennai Ombudsman Centre**  
**Case No. IO (CHN) / G / 54 / 2005 - 06**  
**Mrs. P. Deivani**  
**Vs**  
**The Oriental Insurance Co. Ltd.**

**Award Dated 15.9.2005**

Mrs. P Deivani, the complainant insured her Ashok Leyland Lorry bearing Registration no. TN 49 L 6667s with The Oriental Insurance Co. Ltd., Kukmbakonam Branch for the period froms 7.7.2004 to 6.7.2005. The vehicle met with an accident on 10.10.2004 and the complainant preferred a claim. The Insurer repudiated the claim on the ground that the driver at the material time of accident was not possessing valid driving licence. The Insured also represented that the driver was reminded by them to renew the licence in time and in the meantime the driving licence was expired 22.8.2004 and accepted that this is the lapse on their part.

The Insurer have represented that at the time of accident on 10.10.2004, the driver was not holding effective driving licence, the same was expired on 22.8.2004 and as per sec. 3 (1) of MV Act the driver must hold a valid and an effective driving licence. The documents were produced before the forum and it is observed that the Driver Mr. Murugasen who was on the wheel at the time of accident possessed Driving Licence valid upto 22.8.2004 and the complainant has confirmed that no effort was taken towards the renewal of licence within 30 days after its expiry. Therefore, there was no effective driving licence to the driver on the wheel on the date accident. It is also observed that the State Consumer Forum and National Consumer Forum, also upheld that the insurers are not liable in case of no effective licence on the date of accident. Under these circumstances, this Forum could not find fault with the insurer.

**Delhi Ombudsman Centre**

**Case No. GI / 431 / NIC / 04**  
**Ms. Rohini Chandna**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 17.5.2005**

**Facts of the case**

Claim pertains to the theft of the insured vehicle under the Policy in the name of Ms. Rohini Chandna. Risk under the Policy commences from 29.7.2003 to 28.7.2004. The vehicle was stolen on 20.2.2004. At the time of theft the vehicle was in the name of Mr. Narinder Sabharwal as per the Registration Certificate. The vehicle was transferred in the name of Insured on 25.2.2004 i.e. after 5 days of theft. Thus at the time of theft, insured was not the registered owner of the vehicle. Claim was repudiated by Insurance Company.

**Observations of Hon'ble Insurance Ombudsman :**

After hearing both the parties and after careful consideration of the facts of the case, Hon'ble Insurance Ombudsman is unable to give any relief to the complainant. Under the Motor Vehicle Act, 1988, the person in whose name the motor vehicle stands registered is the owner of the vehicle. At the date of the theft of the vehicle in this case (20.02.2004), the vehicle was not registered in the name of the complainant and, therefore, she was not the owner of the vehicle at that date within the meaning of the Motor Vehicles Act. Hence, the complainant could not have had an insurable interest in the vehicle at the date of theft.

In the result, therefore, Hon'ble Insurance Ombudsman dismissed the complaint.

However, if the registration certificate is not regarded as a title to ownership and if the complainant can prove otherwise that she was indeed the owner of the vehicle at the date of theft then it may be possible to hold the Insurance Company liable in this case. The complainant will have to prove her ownership in a civil court. The Office of Insurance Ombudsman is not the appropriate Forum for settling disputes regarding ownership.

**Delhi Ombudsman Centre**  
**Case No. GI / 390 / NIC / 04**  
**Shri Tarun Sharma**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 19.5.2005**

**Facts of the case**

The claim of the complainant is in respect of the theft of his vehicle (Tata Indica - 2003) on 19.05.2003. The claim has been repudiated by the Insurance Company on two grounds. Firstly, it has been repudiated on the ground that the car was being used as a taxi (that is, for hire and reward) This is a violation of the insurance contract. Use of a private vehicle as a taxi is expressly prohibited. Such use violates the condition regarding limitations as to use. Secondly, the claim has been repudiated on the ground that reasonable steps were not taken by the insured to safeguard the car from loss.

**Observations of Hon'ble Insurance Ombudsman :**

Hon'ble Insurance Ombudsman does not find any strong evidence to support the first ground of repudiation. The investigator of the Insurance Company has stated that the

complainant was using his car for hire and reward. However, this is not supported by any concrete evidence.

However, there is considerable force in the second ground taken by the Insurance Company to repudiate the claim. It is evident from the FIR that the driver of the vehicle went into a restaurant after leaving the car outside, open and with the ignition key on. This is gross negligence on the part of the driver. A car left in that manner is fair game for any marauder.

In the result, Hon'ble Insurance Ombudsman was unable to give any relief to the complainant. Complaint was dismissed.

**Delhi Ombudsman Centre**  
**Case No. GI / 395 / NIC / 04**  
**Smt. Rudrakshi Warikoo**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 26.5.2005**

**Facts of the case**

The loss assessor engaged by the Insurance Company has recommended payment of Rs. 18,760/- to the complainant. Normally, the Insurance Company should have accepted the recommendation of the loss assessor. However, in this case, the Insurance Company has not strictly followed the recommendation of the loss assessor. For example, the loss assessor has valued the salvage at Rs. 750/- only, whereas the Insurance Company has deducted a sum of Rs. 1,540/- towards salvage. This point was discussed in particular during the hearing of the case. The representative of the complainant stated that the complainant was very anxious to deposit the salvage with the Insurance Company but the Insurance Company did not bother to accept the salvage. Repeated efforts made by the complainant to deposit the salvage were of no avail. There was no response from the Insurance Company. Not only that, the complainant has already incurred heavy rental charges on account of storage of salvage. According to the representative of the complainant, the complainant has already paid more than Rs. 3,000/- towards rental charges.

**Observations of Hon'ble Insurance Ombudsman :**

In the circumstances, Hon'ble Insurance Ombudsman is of the view that no deduction on account of salvage is warranted in this case. The salvage is negligible and should be left out of account altogether. It will not be fair to make any deduction on account of salvage when the complainant has already incurred rental charges which are more than four times the value of the salvage.

Hon'ble Insurance Ombudsman also finds that for one of the doors which was replaced, the complainant has paid Rs. 7,200/- whereas the Insurance Company has allowed only Rs. 7,000/-. Thus, there is a difference of Rs. 200/-.

The Insurance Company has already paid Rs. 16,500/- to the complainant. All things considered, Hon'ble Insurance Ombudsman passed the Award that a further sum of Rs. 1,740/- be paid to the complainant. This will be just and fair in the circumstances of the case.

The Award shall be implemented immediately.

**Delhi Ombudsman Centre**  
**Case No. GI / 529 / NIA / 04**

**Shri Ravinder Singh**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 31.5.2005**

**Facts of the case**

The complainant, Shri Ravinder Singh, appeared in person. No one came to represent the Insurance Company although notice for the hearing was sent to them as far back as 22nd February, 2005. The absence (probably deliberate) of any representative of the Insurance Company at the time of the hearing is regrettable. Also there is no reply from the Insurance Company explaining their position with regard to the complainant. All this amounts to obstructing the Insurance Ombudsman in the discharge of his statutory duties.

In the absence of any representative of the Insurance Company, no worthwhile hearing could take place on 20th May, 2005. The complainant stated that he had submitted all the requisite papers to the Insurance Company. The theft of his vehicle is stated to have occurred on 29.11.2002. Hon'ble Insurance Ombudsman thought that by now the Insurance Company would have taken a decision with regard to the claim of the complainant. However, the complainant stated that he not had any response from the Insurance Company.

After the hearing on 20th May, 2005, office contacted the concerned Senior Divisional Manager of the Insurance Company and requested him to send the claim file to my office for my perusal. Till date the claim file has not been sent to the office. However, a letter dated 26th May, 2005 was received in the office from the concerned Senior Branch Manager of the Insurance Company. Contents of the said letter are reproduced below :-

"In reference to above, it is bring to your kind notice that we have asked for :-

1. NCRB Report
2. G. R. Verification & claim form is to completed. As per our memory file is yet to be traceable in Div. office.

This is a very irresponsible reply from the Insurance Company, to say the least.

There is already an untrace report from the police. Police have not been able to trace the stolen vehicle. However, some of the culprits involved are stated to have been tracked down and arrested. Surely, the claim form would have been filled up by the complainant. Otherwise, he would not have chosen to make a complaint to this Forum. The claim is in respect of the theft of the vehicle belonging to the complainant. Hon'ble Insurance Ombudsman does not, therefore, see how GR verification is relevant. There is no end to the number of NCRB reports which can be obtained. Hon'ble Insurance Ombudsman is not sure whether an NCRB report will at all be available in this case. The theft has occurred in the State of Uttar Pradesh NCRBs may or may not have statistics relating to vehicles stolen in the State of Uttar Pradesh. In any case, when there is an untrace report by the police it seems quite unnecessary to insist on an NCRB report.

**Observations of Hon'ble Insurance Ombudsman :**

If the Insurance Company has any objections to the claim of the complainant, they should state the objections clearly and make them known to the complainant.

Otherwise, they should pay the admissible claim amount without any further delay as per the terms of the contract.

Since the Insurance Company has not indicated its stated in this case, Hon'ble Insurance Ombudsman cannot straightway give relief to the complainant. However, Hon'ble Insurance Ombudsman recommended that -

- (1) A decision with regard to the claim of the complainant be taken by the Insurance Company within a period of 15 days from the date of this Recommendation;
- (2) The decision shall be communicated in writing to the complainant;
- (3) The Insurance Company shall fix responsibility for the loss of the claim file in this case; and
- (4) The Insurance Company should offer an explanation to my office as to why no representative was deputed to attend the hearing on 20th May, 2005.

The behaviour of the Insurance Company has been less than responsible in this case. Hon'ble Insurance Ombudsman therefore, asked the Secretary of the office to send a copy of this Recommendation to the Chairman of the Insurance Company for appropriate action.

The complaint is disposed of accordingly.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.003.0414**  
**Shri M. Srikanth**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 2.5.2005**

Policy No. 550200 / 31 / 30 / 6100343 was issued by the Respondent company to cover vehicle bearing registration no. TN 04K 9459 for the period 2.6.2003 to 1.6.2004 to M/s Dispotech Fabrics, Chennai. This vehicle was sold to the complainant and it was registered in his name on 15.09.2003. The vehicle met with an accident on 28.09.2003. The claim was rejected by the insurer on the grounds that the transferee had no insurable interest on the vehicle at the time of accident. No specific request for change of name in the policy was submitted to the insurance co. It was held that General Regulation No. 17 of the Motor Vehicle Act was not complied with. Since the own damage section of the policy is a contract between the insurer and the insured, the insured must have insurable interest in the property proposed for insurance. Since the transferee cannot enforce his claim in respect of any loss or damage to the vehicle in the absence of a novation, the decision to repudiate was upheld.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.002.0371**  
**Shri V. Tirupal Reddy**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 2.5.2005**

The complainant purchased a motor package policy from the respondent company to cover his new Mahindra Bolero Jeep for the period 13.09.2002 to 12.09.2003. The said vehicle met with an accident on 7.11.2002. The claim was rejected on the ground that

the vehicle was used as a commercial vehicle at the time of accident. The complainant contended that the vehicle was not used either for hire or for reward. His close friends wanted to witness the birthday celebrations of Shri Chinna Jeeyer Swamy at Vijayawada and hence gave the vehicle to them. The insurers contended that their panel investigator confirmed that the inmates gave statements that the vehicle was indeed hired. It was held that the occupants of the jeep at the time of accident, stated the entire trip was arranged by one Hari Swamy who even bore the fuel charges. However, the investigator failed to examine the crucial evidence of Shri Hari Swamy and the reasons given by the investigator for his failure to record the statement of Shri Swamy do not carry conviction. Since the insurer failed to prove satisfactorily that the vehicle was taken for hire or reward at the time of accident, they are directed to honour the claim and pay as per terms and conditions of the policy.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.004.0429**  
**Smt. B. Vimala Reddy**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 12.5.2005**

The complainant's vehicle bearing Regn. No AP - 09AA 0447 covered under a motor package policy with the above insurer for the period 1.8.2003 to 31.7.2004 met with an accident on 4.5.2004. The complainant submitted an estimate of repairs / replacements for Rs. 2,62,933/-. However, the respondent company's surveyor assessed the damages for Rs. 55,882/- on repair basis.

The complainant contended that she has insured her vehicle for a sum insured of Rs. 2 lakhs and as such was eligible for the full amount. The insurer contended that the surveyor assessed the loss at Rs. 55,882/- on repair basis after discussions with the repairers. The complainant submitted the repair bills amounting to Rs. 1,41,000/- only on the eve of the hearing.

It was held that the insurers would process and pay the claim having regard to the bills submitted vis-a-vis the damages to the vehicle.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.002.0425**  
**Smt. B. Ratna Kumari**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 12.5.2005**

The Respondent company issued a motor package policy to one Mr. N. Sukumar to cover vehicle No. AP 16U 1485 for the period 1.3.2004 to 28.2.2005. The said vehicle met with an accident on 6.7.2004. While the claim being processed it was observed that the ownership of the vehicle as per R. C. Book was in the name of the complainant w.e.f. 27.3.2004. The complainant, the registered owner of the vehicle did not transfer the insurance to her name as on the date of accident. Insurers contended that it was a clear violation of General Regulation No. 17 of the Motor Tariff.

It was held that the Own Damage Section of the Motor Policy is a contract between the insured and the insurer and the former must have insurable interest in the property

proposed for insurance. In this case, there was no such insurable interest and no such contract between the transferee and the company.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.005.0364**  
**Mr. R. Shemi**  
**Vs**  
**Oriental Insurance Co. Ltd.**

**Award Dated 30.5.2005**

The insurers processed the claim on the basis of the certificate issued by the police. They also obtained a valuation report from one of their panel surveyors. The surveyor assessed the value of the lost vehicle at Rs. 7,000/-. The complainant refused to accept the amount as it was far below her expectations.

His daughter had insured the vehicle for a sum insured of Rs. 17,000/- and paid the premium for the same. As such she was eligible for a sum of Rs. 17,000/- as compensation.

The policy was issued on the basis of 'Insured's Estimated Value', before the tariff was amended in July, 2002. According to this principle, the insured was eligible for Rs. 7,000/- only being the market value of the vehicle as on the date of theft. This value was not arrived at by them but by a qualified motor surveyor.

It was held that the issue under dispute was only quantum of claim. The amended motor tariff with effect from July, 2002 was basis for arriving at both department and market value. Accordingly, a four year old vehicle attracts 40 % depreciation for arriving at the market value. The market value in this case works out to Rs. 10,200/-. The insurers are directed to pay Rs. 10,200/- to the complainant.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.007.0421**  
**Dr. H. S. Prahlada**  
**Vs**  
**Tata AIG Insurance Co. Ltd.**

**Award Dated 13.6.2005**

He purchased a motor package policy from the Respondent to cover his Maruti Car w.e.f. 8.8.2004. He later purchased an Opel Corsa Car and requested the insurer to substitute the new car for the old one. Since the insurer expressed his inability to do so, he requested them to cancel the old policy and refund full premium.

The insurers cancelled the old policy a fresh policy commencing w.e.f 11.8.2004 was issued for the Opel Corsa Car. The old policy was cancelled on short period scales and Rs. 1,413/- was paid by cheque dated 30.3.2005.

Complainant contended that he was eligible for full refund and rebate for installation of anti-theft device.

Insurer contended that the tariff provides for refund of premium on short period scales and since the complainant could not prove that the vehicle was insured elsewhere, third party premium was retained as per M. V. Act. Proposal form contained no details about the anti-theft device. Hence rebate not allowed.

**Held** Refund was rightly allowed by the insurer. However they have delayed in making payment by more than 7 months Hence insurers are directed to recalculate refund as per tariff with interest as per IRDA guidelines. Complaint for full refund of premium, rebate for anti-theft device stands dismissed.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.002.013**  
**Shri G. Sambhi Reddy**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 13.6.2005**

Comprehensive motor policy was issued to Shri Y. Srinivas Reddy to cover Vehicle No. AP - 07V - 3373 for the period 19.5.2003 to 18.5.2004. Vehicle met with accident on 6.3.2004. R. C. Book in the name of the complainant w.e.f. 28.11.2003, while policy was in the name of the transferor. Claim rejected on the grounds of violation of General Regulation No. 17 of the Motor Tariff and no insurable interest for the complainant in the absence of contract.

Complainant contended that he was not aware of procedures.

Held that violation of G. R. no. 17 of the Motor Tariff not condoned. Own Damage Section of the policy is a contract between insurer and insured. In this case there was no such insurable interest and no such contract between the transferee and the company. Since novation did not take place at all, repudiation of the claim was upheld.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.005.058**  
**Shri P. Srinivas Rao**  
**Vs**  
**M/s. Oriental Insurance Co. Ltd.**

**Award Dated 19.7.2005**

Shri P. Srinivas Rao, Purchased a motor policy for his motor cycle with the insurer for the period 2003 - 04. The said policy was due for renewal on 23.1.2004. The complainant sent premium vide Demand Draft on 20.2.2004 for Rs. 821/-. As there was no response from the insurer, complainant approached the insurer. He was informed that since renewal premium was not received within time, renewal was not effected and DD was returned to the insured. Though he had not received the DD as on that date, he, in a hurry to obtain insurance coverage for vehicle, approached M/s. National Insurance Co. Ltd., (not the opposite party in this case) and purchased a fresh policy to cover the vehicle with effect from 27.12.2004. On 9.2.2005 he received a policy from the insurer. This policy was for the period from 24.2.2004 to 23.2.2005 along with refund of Rs. 119/- being the refund of excess premium paid earlier. Surprised by this he requested the insurer to refund the entire premium since he had already obtained a policy. Since he did not receive any reply from the insurer, he approached this office.

**Held :**

The complainant contends that he obtained a fresh policy from a different insurer on receipt of information from the insurer that his policy could not be renewed. The insurer also could not prove that the original policy was issued either to the insured or to his representative at any time. During the hearing, the insurer only quoted the practice that the policies are issued immediately.

In view of this, I hold was not given policy bond in time and also was given wrong information prompting him to obtain a fresh policy. Therefore, I direct the insurer to refund the premium amount of Rs. 702 and Rs. 1,000/- towards expenses incurred by the insured in pursuing this complaint. No Award is given for mental agony or interest.

**Hyderabad Ombudsman Centre**

**Case No. IO (HYD) / G - 11.005.006**  
**Shri Shaik Budan Sahib**  
**Vs**  
**M/s. Oriental Insurance Co. Ltd.**

**Award Dated 19.7.2005**

Shri Shaik Budan Sahib purchased a Maruti 800 Deluxe car bearing chassis no. 1442928. He took delivery of the above vehicle on 18.5.2000 from M/s. Mitra Agencies, Vijayawada. Insurance for the above vehicle was purchased with effect from 18.5.2000 vide policy no. 352 / 20001.

On 19.5.2000 the said car met with an accident. Intimation was given to insurer and insurer deputed a surveyor. As there was no response from the insurer, even after issuing the Legal Notice he approached this office for redressal. The insurer contends that the vehicle was driven by the wife of the insured at the time of accident and she was not holding any driving licence. Since the vehicle was driven by a person without having a valid licence, the claim is not payable.

**Held :**

The accident occurred on 19.5.2000 which was confirmed by both the parties. However, there is a dispute regarding the person that drove the vehicle at the time of accident. It was surprising to note in this case that the insurer had not sent any communication to the insured though more than five years have lapsed from the date of accident. The insurer is rendering lot of dis-service by not responding to the insured. The insurer should have taken a decision and communicated to the insured. As such, I direct the insurer to take a decision and communicate the same to the insured within 15 days time from the date of receipt of this Award. However, insured may approach this office again if he is not satisfied with the decision taken by the insurer.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.004.034**  
**Shri Joshua Gootam**  
**Vs**  
**M/s. United India Insurance Co. Ltd.**

**Award Dated 19.7.2005**

M/s. Satyavani Church of Christ represented by Shri Joshua Gootam purchased Mahendra Scorpio vehicle bearing temporary registration no. AP. 16.AM T / R 552 on 4.10.2003. He also purchased a comprehensive coverage for the vehicle from the respondent company for the period 4.10.2003 to 3.10.2004. The vehicle was insured as Maxi Cab. However, on registration with RTA, Kalkinada, it was registered as a permit service vehicle / LMV under register no. AP05 Y 5566. Accordingly, a permit PSV no. AP005 / 82 / PTNV / 2 to carry persons belonging to Satyavani Church of Christ within Andhra Pradesh state was issued. The said vehicle met with an accident on 4.10. 2003. The accident was intimated to the insurance company and the surveyor assessed the loss for Rs. 58,450/-. The claim was repudiated by the insurance company on the grounds that the driver was not holding a valid driving licence at the time of accident. The complainant contended that insurance policy was purchased at the dealer point and whatever premium was demanded was paid. The insurer contended that since insurance policy was obtained for Maxi Cab, the driver should hold a valid licence to drive a transport vehicle. The driver, Mr. P. Ramarao did not have a valid licence in force at the time of accident. The said licence expired on 11.5.2003 and was renewed on 18.10.2003 valid up to 17.10.2006. Therefore, at the time of accident the licence was not in force.

**Held :** Rejection of the claim just because of the driving licence (transport) was not in force at the time of accident is not justified. The insurer ignored the fact that Mr. P. Rama Rao was having a driving licence (transport) from 1984 which was apparently renewed with effect from 18.10.2003 without any adverse remark. Hence, the rejection of claim on technical grounds causes injustice to the complainant. The claim admitted on ex-gratia basis for the total amount as recommended by the surveyor.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.003.0426**  
**Shri A. Purender Reddy**  
**Vs**  
**M/s. National Insurance Co. Ltd.**

**Award Dated 1.8.2005**

Complainant purchased a comprehensive motor policy to cover his car for the period 6.7.2001 to 5.7.2002 from the respondent company. Since this was a fresh insurance proposal was sought. The complainant declared that the claim was pending on the policy for the period 6.7.2000 to 5.7.2001 with his earlier insurer M/s. Oriental insurance Co. Ltd. As such policy was issued by imposing 10 % malus as per the tariff. The policy was renewed for a further period of one year i.e., 2002 - 03 on 5.1.2004 He addressed a letter to the insurer enclosing a renewal notice issued by his earlier insurer wherein he was eligible for 20 % No Claim Bonus as such he claimed refund for the year 2001 - 02 and 2002 - 03. He contended that he withdrew the claim and was therefore allowed a discount. The insurer contended that the renewal notice dated 28.06.2001 was received by them only on 5.1.2004. The policy was under written based on the complainant's declaration in the proposal form and refund was sought after expiry of two years hold. Policy was issued on the basis of declaration made in the proposal form, which forms part of the contract. The complainant did not withdraw the claim voluntarily but allowed the period to lapse. Withdrawal was not informed to the respondent company no lapse observed on the insurers part.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.008.066**  
**Shri Mohd. Jeelani Basha**  
**Vs**

**M/s. Royal Sundaram Alliance Insurance Co. Ltd.**

**Award Dated 30.8.2005**

The complainant's vehicle insured under motor package policy for the period 3.2.2004 to 2.2.2005. The said vehicle met with an accident on 22.4.2004 resulting in heavy damages to the right side of the vehicle. Insurer caused for an investigation regarding the driver at the time of accident. It was revealed that the driver of the vehicle was cleaner who did not have a driving licence. As such the claim was repudiated. Insured contended that the driver had a valid driving licence and this fact is evident in the FIR. Cleaner was sleeping behind driver's seat and as such was not driver. Insurer contended that keeping in mind nature of damage to the vehicle the cleaner ought to have driving the vehicle at the time of accident. Cleaner's driving licence was not produced to them despite several reminders. Since there was violation of policy condition, the claim merited repudiation.

**Held :** Photographs of the accident clearly revealed that the impact was entirely on the right of the vehicle. The driver escaped unhurt which is very improbable in such an

accident. The complainant did not produce any evidence in support of his contention. Therefore, insurer's decision is upheld.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.002.070**  
**Shri Tallagalla Parasuramudu**

**Vs**

**M/s. New India Assurance Co. Ltd.**

**Award Dated 13.9.2005**

Shri T. Srinivasa Rao covered his Hero Honda Motor Cycle bearing registration no. AP 37 AE 3832 for the period 5.1.2004 to 4.1.2005. The vehicle was stolen on 30.4.2004 when it was parked in the compound of Ashram Hospital, Eluru. When the claim was being processed it was observed that the policy was in the name of Shri T. Srinivasa Rao while the RC Book of the vehicle was in the name of Shri T. Parasuramudu. As such the claim was repudiated. Complainant contended that proposal form was filled by his brother - in - law who was not aware of the details. Insurer contended that the complainant had no insurable interest on the vehicle.

**Held :** Insurer issued policy on the basis of details available in the proposal form. Temporary RC was issued in the complainants name while the permanent RC in the name of his father and no concrete reason was furnished during the hearing proceedings for the discrepancy. Therefore, the insurers decision is upheld.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.003.076**  
**Shri K. B. Rajkumar**

**Vs**

**M/s. National Insurance Co. Ltd.**

**Award Dated 15.9.2005**

A lorry bearing Regn. No. AP 11U 2349 was insured comprehensively. It met with an accident on 5.5.2001 near Bellary in Karnataka. While processing the claim it was found that the driver had a fake driving licence and as such the claim was repudiated. Complainant contended that he employed the driver only after being shown the licence and genuiness of it as a layman could not be ascertained. Insurer contended that the licence had two endorsements (i) Invalid carriage given for physically handicapped persons; and (ii) HGV which the RTA denied as having stamped on the licence.

**Held :** The complainant before employing driver took the precaution of ascertaining whether he was in possession of a licence are not. The same driver was penalised for petty offences like overloading, with penalties, but not on the ground of possession of invalid licence. Even experienced authorities did not notice that the licence was not a valid one. Insurer ought to have proven that insured has guilty of wilful breach of policy conditions, which they did not do. As such the complaint is **admitted**.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.003.116**  
**Shri R. Prabhakaran**

**Vs**

**M/s. National Insurance Co. Ltd.**

**Award Dated 30.9.2005**

The complainant insured his car for the period 3.3.2000 to 2.3.2001. The car was damaged on 4.9.2000 while it was being trasported from Srikakulam to Chennai.

Damages were assessed by the surveyor for Rs. 5,007/-. Claim was paid in December, 2000 for Rs. 2,742/- only. After representation, the claim was reworked out and agreed to settle for Rs. 5,742/-. The complainant wanted interest at the rate of 24 % from the date of loss + compensation for mental agony.

**Held :** Complainant was treated very shabbily. They did not explain to the insured why the claim was settled for Rs. 2,742/- as against Rs. 5,007/-. They have also not explained why they reworked out the claim for Rs. 5,742/- after three and half years. The insurer is guilty of deficiency in service and complainant is justified in seeking compensation for interest and mental agony. Insurers are directed to pay interest as per IRDA guidelines and Rs. 5,000/- for mental agony.

**Hyderabad Ombudsman Centre  
Case No. IO (HYD) / G - 11.013.121  
Smt. Minoshi Maheswari**

**Vs**

**M/s. HDFC Chubb General Insurance Co. Ltd.**

**Award Dated 30.9.2005**

Claim under Motor package policy for the period 10.12.03 to 9.12.04. Accident on 9.7.2004 on Hyderabad - Kurnool High way. While processing the claim it was observed that the driver did not possess valid effective driving license at the time of the accident.

**Held :** (1) Many inconsistencies observed no explanation as to why she was not mentioned as driver in the claim form (2) Complainant should have no confusion about the identity of the driver either it was she or it was driven by Mr. Gneswara Rao (3) If it was the complainant herself. Why did she go all the way to Madhya Pradesh to get a duplicate licence for Mr. Gnaneshwar Rao. (4) The insurer's investigator obtained a letter from the License Issuing Authority which clearly stated that the license was not issued by them. Complainant stated that the RTA erroneously printed the wrong number and she did not produce any evidence in support of her contention. (5) The Panchanama stated that the vehicle was lying on the road on 10.07.2004 while the vehicle was with the authorised garage on 09.07.2004 itself. (6) She stated during the hearing proceedings that the vehicle was not toward to Hyderabad but was driven by her. However, in her written complaint submitted to this office she stated that the local driver drove the car back to Hyderabad and she followed car in a jeep with her children. In view of the many inconsistencies, the insurer's decision is upheld.

**Hyderabad Ombudsman Centre  
Case No. IO (HYD) / G - 11.003.0127  
Smt. K. Satyavathi**

**Vs**

**M/s. National Insurance Co. Ltd.**

**Award Dated 30.9.2005**

The complainant husband insured his Motor Car under a Comprehensive policy for the period 13.03.2003 to 12.03.2004. The policy provided for proposal accident benefit in the event of death / disablement to the owner cum driver for a Sum Insured of Rs. 2 lacs. He died in a road accident on 01.02.2004 while driving the car. She preferred two claims (i) own damage claim and (ii) PA Benefit for Owner cum Driver The OD claim was closed since RC book was not transferred on to her name The PA claims was rejected as she did not submit Legal Heir Certificate issued by the appropriate court of Competent jurisdiction.

**Held :** The complainant stated that the Car sold to a third person and hence, it was difficult to procure RC book. She procured all papers from various authorities, except Legal Heir Certificate. Legal Heir Certificate gives proof of title to the vehicle. Insurers are willing to pay the claim as and when certificate is produced. Complainant is directed to procure certificate and submit it to the insurer.

Complaint is **dismissed**.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.002.0164**  
**Shri V. Kannan**  
**Vs**  
**M/s. Tata AIG Gen. Insurance Co. Ltd.**

**Award Dated 30.9.2005**

A motor comprehensive policy was issued in the name of Shri Mohan Bosco Nevis. The said vehicle purchased by the complainant on 25.11.2004. The vehicle met with an accident on 6.3.2005. While processing the claim, it was observed that RC stood in the name of the complainant while policy issued in the name of the complainant while policy issued in the name of original owner Shri Mohan Bosco Nevi. The claim was rejected on the ground of violation of GR 17 of the Indian Motor Tariff. The complainant contended that she could not transfer the policy due to family exigencies. Further the policy was in force till 6.8.2005 and he was under impression that a fresh policy should be taken only after the expiry of the policy.

**Held :** The transferee failed to transfer the policy in his name. Having effected the transfer in the RC book, he could have effected the same in policy too. General Regulation No. 17 is quite clear in this matter. As such the insurer's decision is upheld.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.005.055**  
**Mrs. K. C. Ammaiah**  
**Vs**  
**M/s. Oriental Insurance Co. Ltd.**

**Award Dated 30.9.2005**

The complainant owned a vehicle bearing no. KA 05 EF 8130 which was stolen on 28.6.2004. She made a claim with the insurer which was rejected citing the GR 17 of the motor tariff. The complainant contended that her husband died in a road accident on 27.6.2002 and since then the policy was renewing continuously. She effected the change of ownership in the RC book but did not change the ownership in the policy as she was not aware of the rules.

**Held :** The insurer's vehicle should have been immediately transferred in the name of legal heirs but surprisingly, the vehicle was not transferred for more than two years after his death. The insurance should also have been changed in the name of Smt. K. C. Ammaiah. However, their pleading of ignorance of rule cannot be held against the insurer.

**Hyderabad Ombudsman Centre**  
**Case No. IO (HYD) / G - 11.003.029**  
**Shri Nagesh Gopalkrishna Naik**

**Vs**

**M/s. National Insurance Co. Ltd.**

**Award Dated 30.9.2005**

The complainant insured his Tempo trax for the period 18.10.2003 to 17.10.2004. The vehicle met with an accident on 21.01.2004, while it was driven by the son of the complainant. A claim was preferred with the Insurance company and while it was being processed, they observed that the driving licence did not have the endorsement number valid for driving a transport vehicle. The insurer, therefore rejected the claim. The complainant contended that his son had a valid driving licence to drive LMV for the period 09.01.2005 to 08.01.2005. The original transport licence was valid upto 07.12.2003 issued by ARTO, Honavar. The insurers contended that despite several reminders to the insured to furnish endorsement particulars the same was not compliance with. Therefore they deputed an investigator to verify the records from ARTO Mumbai Central. He informed that the relevant papers were not traceable in their office and as on the date accident the driver did not have a valid driving licence.

**Held :** The insurers were right in insisting on production of endorsement particulars for the transport licence since the driver holding a correct and valid driving licence in the class of vehicle was an essential requirement. The complainant did not confirm the endorsement made on the licence.

**Kochi Ombudsman Centre**

**Case No. IO / KCH / GI / 11.002.270 / 2004 - 05**

**Shri K. V. Balakrishnan**

**Vs**

**New India Assurance Co. Ltd.**

**Award Dated 5.4.2005**

The Complaint under rule No. 12(1)(b) read with Rule 13 of the RPG Rules, 1998 arises out of settlement of a motor claim. The complainant had insured his Hyundai Santro Car KL - 01 - V - 9489 with the insurer for an IDV of Rs. 2,26,800/-. The vehicle met with a serious accident on 22.8.2004 and the complainant and his wife were severely injured and the hospitalization prolonged for a considerable time. Since the party was not available for consultations, the claim settlement also got prolonged. Ultimately with the involvement and co-operation of the surveyor, the claim was settled on cash loss basis for a total amount of Rs. 1,92,00/- including the wreckage value of Rs. 65,000/-. The complainant availed of the claims settlement at Rs. 1,92,000/- in full and final settlement of the claim and later raised a dispute for Rs. 34,500/- as the difference in IDV and another amount of Rs. 11,376/- towards demurrage paid at the garage. The car was 5 years old and the insured and the surveyor had worked out the details and agreed for the settlement. In the circumstances of the case, some delay was inevitable. The allegations of the complainant were also found baseless and he had discharged the claim initially with full satisfaction. The complaint had therefore no force and hence it was dismissed.

**Kochi Ombudsman Centre**

**Case No. IO / KCH / GI / 10.005.258 / 2005 - 06**

**Shri V Veeran**

**Vs**

**Oriental Insurance Co. Ltd.**

**Award Dated 3.5.2005**

The Complainant under Rule No. 12(1)(b) read with Rule 13 of the RPG Rules, 1998 arises out of the damages caused by a lorry owned by Bharath Transport company. The complainant is the owner of the godown building. The lorry had hit a portion of the godown building. The lorry had hit a portion of the godown building and damaged the building causing heavy loss to the complainant and the repair charges was assessed at Rs. 80,000/-. The records revealed that the driver of the vehicle had not possessed any valid driving licence as the same was expired by 16.8.01, while the accident was occurred on 4.1.02. The respondent submits that the complainant is the third party and the owner of the vehicle had violated the terms and conditions of the policy. The case was beyond the realm of this Forum and the matter was found beyond the scope of Rule 12 of the RPG Rules. In view of the facts of the case the issue was to be decided by MACT and permission was granted for filing the matter before MACT.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.002.243 / 2004 - 05**  
**Shri K. Reghunathan**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 10.5.2005**

The Complaint under Rule No. 12 (1) (b) read with Rule 13 of the RPG Rules, 1998 relates to delay in settlement of an own - damage Motor Claim by the respondent insurer. The complainant had insured his brand new JCB Excavator on 14.11.2003 for a sum insured of Rs. 16,38,750.00. Unfortunately, on 2.2.2004, while the Excavator was in stationary position at the workspot, a heap of rubbles and soil slid and fell on the Excavator and it was extensively damaged. The Driver of the Excavator died on the spot. The complainant had duly informed the insurer and the police. The insurer's surveyor had asked the complainant to dismantle the Excavator after initial inspection and the engine was to be shifted to M/s. Nirmala Automobiles Trivandrum and the rest of the machinery to the service providers at Vazhakulam. The dealers at Trivandrum opined that the Engine was only to be cleaned. The necessary work order for the same was issued by the insurer on 30.4.2004 and the work order for repairs of the rest of the machine was issued in July 2004. The complainant was harping on the plea of total loss whereas the surveyors had suggested repairs only. The insurer's accepting the surveyor report gave sanction for repairs only as the repair charges did not overshoot 75 % of the IDV. The surveyor's assessment of the loss was to the tune of 50 % of the IDV. Since the complainant was not satisfied with the proposal to repair the Excavator, he went on writing to the Insurance Company for considering the claim on total loss basis, which the Insurance Co. could not do as per the policy conditions. In short, there was total inaction on the part of the complainant to get the Excavator repaired. This Forum after perusing the records and hearing the parties found that the insurer had acted swiftly and in accordance with established procedures and hence the insurer was asked to settle the claim on repair basis only subject to production of bills and compliance of all other mandatory formalities.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.004.241 / 2004 - 05**  
**Smt. Vishlakshi**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 24.5.2005**

The complainant under Rule 12 (1) (b) read with Rule 13 of the RPG Rules, 1998 relates to non-settlement of a motor claim by the insurer. The vehicle KL - 09 - G - 3225 was insured with the respondent from 8.8.2004 to 7.8.2005 and even earlier. The vehicle was in the name of one Shri P. P. Krishnan who had expired in June, 2003. Although the RC Book was changed in the name of the insured's wife subsequent to his death, the legal heirs of the insured were unaware of the fact that the Insurance Certificate too had to be suitably changed and therefore they had renewed the insurance policy even as on 8.8.2004 in the name of the deceased owner. The insurer had also not verified the RC book while renewing the insurance. The vehicle had met with an accident on 28.8.2004 and the surveyor had met with an accident on 28.8.2004 and the surveyor of salvage and policy excess. It was only subsequently that the discrepancy in the Insurance Certificate was noticed. Although the legal heirs of the deceased were in possession of the vehicle, the fact remained that there was a violation of the Indian Motor Tariff rules and the insurer on representation by the complainant to the Grievance Cell decided to Settle the claim on non-standard basis at 60 % of the surveyor's estimate. However, the complainant was not prepared to accept the claim at 60 % on non - standard basis. The representative of the insurer stated that they could go upto 75 % of the surveyor's estimate insurer stated that they could go upto 75 % of the surveyor's estimate in deserving non-standard claims. Considering the circumstances of the case and since there was no malafide intentions on the part of the complainant in not informing the insurer about the death of the original RC owner, this Forum decided to allow 75 % of the surveyor's estimate (Rs. 16508.75) to the claimant as repair charges in full and final settlement of the claim.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.002.041 / 2005 - 06**  
**Shri N. K. Mathew**  
**Vs**  
**New India Assurance Co. Ltd.**

**Award Dated 21.6.2005**

The complaint under Rule No. 12 (1) (b) read with Rule 13 of the RPG Rules, 1998 came up consequent to repudiation of a Motor claim by the insurer. The complainant had insured his 1980 model scooter with the insurer for an IDV of Rs. 6,000/-. The complainant's son had left the scooter on 8.9.2004 at the parking place in Kaloor Bus Stand, Ernakulam on his way to the college. The scooter was not locked and it was so admitted by the complainant too. The complainant, reportedly, was under impression that no one would steal such an old vehicle. The handle lock of the scooter was in disorder and the keys of the vehicle were also lost some 5 years back. The complainant admitted to the negligence on his / his son's part in not protecting the property. The insurance company had denied the claim as the insurer had failed to take proper care of the vehicle as warranted under condition No. 4 of the policy. In essence, there was no case as such since the complainant was full aware of his lapse and still wanted some indemnity as the vehicle was lost. The violation of the policy conditions being very clear, the repudiation was found to be just and proper and hence the complaint was dismissed.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.003.022 / 2005 - 06**  
**Shri Dickson Babu**  
**Vs**

**National Insurance Co. Ltd.**

**Award Dated 28.6.2005**

The complaint under Rule 12(1)(b) read with Rule 13 of the RPG Rules, 1998 arose out of repudiation of a motor claim by the insurer. A private car - Hundai City - No. KL - 01 - AA 5785 was owned by one Shri. Mohanchandran Nair and while the insurance coverage was in his name, on 5.5.2004, he reportedly entered into a white paper-receipt agreement with the complainant for sale of the vehicle. While the RC Book and Insurance were not transferred, the vehicle met with an accident on 9.5.2004 i.e., 4 days after the alleged sale for which the records were not properly executed. A white paper agreement could not conclusively prove a sale without other supportive evidences. The complainant Shri Dixon Babu driving the vehicle at the material time of accident and he possessed a valid driving licence. But, the privity of contract was lacking as far as the complainant was concerned and the insurer was right in denying the claim of Shri. Dixon Babu. The ownership of the vehicle in all records was with Shri Mohanachandran nair and Shri Dixon Babu, the complainant had no locus - standi in order in pursue or sustain a complaint as there is no proof for the sale of the vehicle in his favour. The complaint was therefore dismissed.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.002.052 / 2005 - 06**  
**Dr. K. Sasidharan**  
**Vs**

**New India Assurance Co. Ltd.**

**Award Dated 12.7.2005**

The complaint under Rule 12 (1) (b) read with Rule 13 of the RPG Rules 1998 is resultant to partial repudiation of a motor claim by the insurer. The complainant had insured his Fiat Uno car of of 2000 Model with the insurer in February 2004 for an IDV of Rs 2,00,129/-. On 26.3.2004 i.e., in a month's time, the car met with a serious accident and the surveyor of the insurance company worked out the loss on repair basis at Rs. 72,982/- and since the amount was less than 75 % of the IDV they could not accede to the request of the complainant to settle the claim on Total loss basis. As there was reportedly no response from the insurer, after about eight months, the complainant disposed of the vehicle for a sum of 70,000/-. Since the vehicle was sold without the concurrence of the insurer, the Company offered to settle the claim only on cash loss basis for a sum of Rs. 50,979/- which the complainant refused. However, on analysis of the case, it was clear that value of the car could not slide down drastically within a month's time of taking the insurance. Besides, the complainant also could not wait indefinitely as the insurer was not taking a decision because of which he was compelled to sell the vehicle. In such circumstances, the complainant could not be held totally responsible for the irregularity. Therefore, this Forum allowed the repair charges of Rs. 72,000/- to the complainant setting aside the cash loss basis settlement of Rs. 50,979/- originally offered by the insurer and the complaint was disposed of.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.011.023 / 2005 - 06**  
**Shri Abdul Basheer**  
**Vs**

**Bajaj Alliance Gen. Insurance Co. Ltd.**

**Award Dated 27.7.2005**

The complaint under Rule 12 (1) (b) read with Rule 13 of the RPG Rules, 1998 relates to repudiation of a motor claim by the insurer. The Mahindra & Mahindra Scorpio - KL - 01 - AA 7391 was insured with the respondent and on 28.9.2004 - during the currency of the policy - the vehicle met within an accident. Although a claim for Rs. 1,49,205/- was lodged with the insurer, the same was rejected on the ground that the vehicle was insured under a private package policy and at the material time of accident, it was being used on hire contravening the provisions of the policy and the Motor Vehicles Act. The insurer had rejected the claim based on the statement purportedly written by one of the passengers who was accident. The complainant claimed that the statement was maliciously obtained from the person by name Mr. Abdul Jaleel by the Investigator and that the said person was one of his relatives traveling in the vehicle and all of them were proceeding to attend a funeral. The insurer had nothing on record to prove that the vehicle was being used as a Taxi except the controversial statement of one unconnected person. The FIR also did not mention anything about the vehicle being used as a Taxi as alleged by the insurer. The insurer, in other words, had not proved the case beyond doubt and hence going by the Surveyor's report (Rs. 1,10,000/- estimated) as admitted by the insurer an amount of Rs. 21,000/- was deducted towards salvage, depreciation etc. and the balance of Rs. 89,000/- was allowed to the complainant. The complaint was thus allowed on merit.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.002.064 / 2005 - 06**  
**Dr. P. C. Koruthu**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 11.8.2005**

The complaint under Rule No. 12 (1) (b) read with Rule 13 of the RPG Rules related to non-settlement of a Motor claim by the insurer as recommended for by the surveyor. The complainant had insured his Opel Corsa Car with the insurer (KL / 3G / 8009) for the period 26.3.2003 to 25.3.2004 and renewed it for one more year from 26.3.2004 to 25.3.2005. The car met with an accident on 2.10.2004 and the surveyor had estimated the loss at Rs. 49,500/-. However, while processing the papers, the insurers found out a misrepresentation therein. The complainant's previous car (Maruti 800) had enjoyed 65 % no claim bonus and it was allowed to the Opel Corsa also as both were reportedly vehicles meant for private use. However, the records showed that the Opel Corsa was registered as a Taxi - cab and hence the NCB was wrong. As per the Tariff rules the same NCB could be extended only to the same class of vehicles. Therefore, the insurer recovered the wrongly allowed NCB from the claim amount and the complainant was therefore annoyed resulting in a complaint before this Forum. The complainant who is a Doctor said that the proposal papers were filled up by a Dev. Officer and he had not noticed the mistake of wrongly classifying the Opel Corsa was re-registered as a Private Car, but on the date of insurance, it was on record as Taxi cab only. The complainant realized the technical mistake during the course of the hearing and agreed to accept Rs. 31644/- offered by the insurer after adjusting the wrongly allowed NCB.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.003.100 / 2005 - 06**  
**Shri R. Ravindran & Smt. K. Vijayamma**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 28.9.2005**

The complaint under Rule No. 12 (1) (b) read with Rule 13 of the RPG Rules arose out of repudiation of a Motor claim by the insurer under Pol. No. 570104 / 31 / 03 / 6200003145 for the period 16.7.2003 to 5.7.2004. The complainant's son late Shri. Vimal Kumar met with a Motor Bike accident while he was driving the vehicle on 15.10.2003 and succumbed to the injuries. The victim had only a Learner's Licence and no pucca licence holder was accompanying him on the pillion when the accident occurred. The insurer had rejected the own damage claim for the vehicle as well the personal accident insurance for clear violation of the Motor Vehicles Act. The concession to third party victims did not apply to the owner driven vehicle and hence the own damage claim was rejected' so also since no pillion rider with a valid driving licence was accompanying the victim, the personal accident claim also was rejected. On a perusal of the papers, the repudiation of the claims by the insurer was found perfectly in order and hence the complaint was dismissed.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.003.039 / 2005 - 06**  
**Shri Shaji George**  
**Vs**  
**National Insurance Co. Ltd.**

**Award Dated 26.7.2005**

The complaint under Rule 12 (1) (b) read with Rule 13 of the RPG Rules, 1998 arose as a consequence of repudiation of a motor claim by the insurer. One Shri K. A. Joy had insured his Tata LPT vehicle - KL 8 G 2380 - with the insurer for the period 31.5.2002 to 30.5.2003. The vehicle met with an accident on 31.5.2003 at 7 a.m. The insurance policy was renewed after 30.5.2003 in the name of the original owner. However, when the claim was being processed, the insurance Co. wanted the RC book and then only it came to light that the vehicle was already sold by the original owner to the complainant on 14.5.2003 itself. It was only on 12.12.2003 that the new owner had completed all the formalities for transfer of the Insurance cover to his name. The new owner had made certain allegations that the insurance officials had misled him etc. which however could not be substantiated in the face of the records produced. The insurer made it clear that for the transfer of insurance coverage, the mutated RC book was not immediately necessary and all that they wanted were (1) Copies of the Sale Deed (2) Consent from the original owner (3) Payment of the mutation fee and a proposal. The new owner had not complied with the requirements and the claim came to be repudiated. The decision of the insurer was found proper and hence upheld by this Forum.

**Kochi Ombudsman Centre**  
**Case No. IO / KCH / GI / 11.004.053 / 2005 - 06**  
**Shri E. A. Thomas**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 21.7.2005**

The complaint under Rule No. 12 (1) (b) read with Rule 13 of the RPG Rules, 1998 arose out of repudiation of a motor claim by the respondent. The complainant had insured his Taxi - cab KL 13 E 7587 with the insurer and while the coverage was current, the vehicle met with an accident. A lorry hit the insured vehicle and it again hit another vehicle on the road, on 20.10.2004. The complainant was the owner-driver and

his driving licence had expired on 7.5.04 and it was renewed only on 27.10.2004 i.e., after the accident. Besides, as per the permit, the taxi - cab had a maximum seating capacity of six including the driver and at the material time of accident, the vehicle was carrying 11 persons. In view of these serious violations of the M. V. Act and policy condition, the insurer had repudiated the claim. On detailed examination of the records led before this Forum, it was established that the complainant had committed serious violations of the law. He had not renewed his licence for nearly 5 months after its expiry and his vehicle had carried almost double the number of passengers permitted under the rules. In the aforesaid circumstances, the repudiation of the claim was found justifiable and hence the complaint was dismissed.

**Mumbai Ombudsman Centre**  
**Case No. GI - 227 of 2004 - 2005**  
**Shri Deepak S. Pawar**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 5.5.2005**

Shri Deepak S. Pawar, had taken a Policy to cover his Car. The vehicle met with an accident while proceeding to Pune when an oncoming vehicle dashed at the turning. Shri Deepak S. Pawar, submitted the claim to the Insurance Company and the company deputed their surveyor to assess the loss. Thereafter they repudiated the claim as per General Rule No. 17 of policy on the ground that the RC book recorded the name of Shri Tushar S. Pawar and not Shri D. S. Pawar possibly due to transfer of the vehicle which rendered the contract and the policy inoperative as per Indian Motor Tariff and Motor Vehicles Act. Shri D. S. Pawar, approached the Ombudsman by his letter dated 12.7.2004 seeking his intervention in the matter of settlement of claim.

On analysis of the records, it is observed that as per the R. C. book the vehicle MH-15 / AH / 6323 was covered under the policy in the name of Shri Deepak S. Pawar from 4.3.2003 to 3.3.2004. The vehicle was then transferred, as per R. C. book, in the name of Shri Tushar S. Pawar on 21.7.2003. Although the vehicle was transferred to Shri Tushar S. Pawar and an endorsement on RC Book was recorded in RTO the Insurance Company was not informed about transfer of Insurance and vehicle consequently cancellations of earlier insurance and transfer of insurance to the new Owner. The company has stated that the insured had preferred the claim on 6.1.2004 and it was observed from the R. C. book that the insurance was not transferred within 14 days from the date of transfer effected in the R. C. book. i.e. 21.7.2003 which is the provision as per General Rule 17 of the Indian Motor Tariff. In terms of the above provision, as on the date of accident, there was no Insurable Interest of Shri Tushar S. Pawar in the said vehicle as the Insurance was still in the name of Shri Deepak S. Pawar.

Motor Insurance is governed by All India Motor Tariff, which is in line with Motor Vehicles Act, which is a Statutory Act and compliance with the provisions of the Act is mandatory. As per GR 17 which is a Tariff provision, the change in ownership has to be noted with the Insurance Company within 14 days of the Sale / transfer of the vehicle. In this case, the change of transfer of ownership was not communicated to the insurance company, hence the Company's decision to repudiate the claim is held sustainable.

**Mumbai Ombudsman Centre**  
**Case No. GI - 496 of 2004 - 2005**

**Shri Akhileswar C. Chaurasia**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 25.5.2005**

Shri Akhileshwar C. Chaurasia, had taken a Policy from The New India Assurance Co. LTD., to cover his Car Tata Dumper, under private car policy. The insured submitted claim form on 11.8.2004 informing damage to the vehicle due to accident. The Company informed Shri Chaurasia that they had obtained RTO information of driving licence of Shri Ansari who was driving licence is valid at the time of accident and RTO had clearly mentioned that the driving licence is valid only for HMV. The Company, therefore, regretted their inability to consider the claim on grounds of not holding an effective valid driving licence on the date of accident, which was a breach of Sec. 3 of M. V. Act and policy conditions. Not satisfied with the decision of the Company, Shri Akhileshwar C. Chaurasia represented to the Company with a copy to the Ombudsman stating that the vehicle was given to the driver Shri Nizamudding V. Ansari, in utmost good faith after verifying the validity of his licence and / or its expiry being 22nd day of November 2004 as it appeared in his licence book, issued to him by Mumbai R. T. O. As per RTO letter dated 16.10.2004 the Driving Licence (HMV) of Shri Nizamuddin V. Ansari, produced by the complainant at the time of hearing showed a 5 year validity upto November 2004 and the expiry dates differ from the earlier one.

It is also observed from the RTO letter that the date of issue of driving licence was 1.11.76 and all the earlier renewals were for a period of 3 years, which is the practice followed by the RTO. How the Insured got a different one only from November 1999 to November 2004 is not known and would remain unacceptable to this Forum as it would always go by the official confirmation of the RTO which was verified as per the original document received by the Insurance Company against specific query to that effect made by them. It is important to note that the subsequent licence from November 2004 has been shown as valid for 3 years again upto 2007, which makes only 1999s to 2004 for 5 years which makes was not holding a valid Driving Licence at the material time of accident, which amounts to violation of policy condition as well as a breach of the provisions of the M. V. Act which is a Statutory Act. In the facts and circumstances, the repudiation of claim by the Company cannot be faulted.

**Mumbai Ombudsman Centre**  
**Case No. GI - 235 of 2004 - 2005**  
**Shri Sajjad Chunawala**  
**Vs**

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

**Award Dated 31.5.2005**

Shri Sajjad Chunawala, Complainant had taken a Policy from The Bajaj Allianz General Insurance Company Ltd., Mumbai, to cover his car Ford Ikon Model 2001, for Total Sum Insured of Rs. 4,31,982. Shri Chunawala, intimated the company that in trying to avoid an accident with a taxi at Worli, Mumbai on 24.4.2004, his car went over a road divider, which resulted in damaged to the oil chamber and the internal parts of the engine of the car.

The Company informed Shri Chunawala that the Company's liability would be restricted to Rs. 1,200/- for labour charges and replacement of damaged oil chamber and oil chamber gasket at 15 % and 50 % depreciation plus some parts for suspension and cross member as per the survey report. Other subsequent damages to the internal parts of the engine were not payable as these were not related to the accident. These

damage to the internal parts of the engine were attributed to the continued use of vehicle in damaged condition and without the required care by the driver. Thereafter, the Company vide letter dated 17.7.2004 sent a discharge voucher for Rs.. 4,342/- to Shri Chunawala on the basis of the report of the surveyor, M/s. V. D. Ajmera and Co., who had worked out the liability for the loss. Aggrieved by the decision of the Company, the Insured, approached the Ombudsman by letter dated 28.7.2004 giving facts of the case and seeking intervention in the matter of settlement of his claim for Rs. 91,175/-.

In the absence of a Police Report, we have to go strictly by the narration of accident by the Insured. As per the Insured's statement, the car was only driven from right side of the road to the left side without virtually covering any distance, the nature of damage to the internal parts and engine of the car would not have been so grave and severe.

The liability of the company for the loss is based on the assessment by the Surveyor M/s. V. D. Ajmera and Co. It is a job of the specialists and the Surveyors and duly approved by Insurance Regulatory & Development Authority (IRDA) and then empanelled by the Company to use their services as independent professionals. In view of this their report is technically viable and, therefore, should be acceptable to this Forum. The charges payable by the Company as per the Survey Report which was duly explained by them in a letter to the Insured giving the Company's liability is in order except that the towing charges would be payable as per limit.

Bajaj Allianz Insurance Company Limited is directed to entertain the claim in question of Shri Sajjad Chunawala, for Rs. 4342/- as assessed by the Surveyor plus the towing charges of Rs. 1200/- (subject to the limit of towing charges as admissible under the policy) in respect of his car Ford Ikon bearing Registration No. MH - 02 - LA - 1520 under Policy No. 0G04 - 1901 - 1801 - 00003268 for the accidental damages on 24.4.2004. There is no order for any other relief.

**Mumbai Ombudsman Centre**  
**Case No. GI - 523 of 2004 - 2005**  
**Shri Vilas Raghunath Palande**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 14.6.2005**

Shri Vilas Raghunath Palande, had taken a Policy from The New India Assurance Co. Ltd., Mumbai, to cover his Vehicle Omni Bus (Luxury), In response to Shri Palande's specific request a special permit vide for operation from Thane to Malvan via Mumbai and back from 4.5.2003 to 5.5.2003 for one return trip only was issued by RTO Thane with a list of passengers. The bus met with an accident near Khed (Ratnagiri) on 6.5.2003 and as per Police FIR one person died and nine others were injured. The company appointed Shri Dambe, Surveyor for spot survey and M/s. V. Partikh & Co., for final survey of the damaged insured vehicle. Subsequently an Investigator Smart Investigator was also appointed to ascertain the exact circumstances of the accident and subsequent developments.

New India Assurance Company as per their letter dated 24.9.2004 informed the Insured that the List of passengers found to be travelling did not match with the list given in the permit and on investigation it was found that a different set of passengers were travelling at the time of the accident which was a clear breach of conditions in the Special Permit and therefore, committed a breach of provision under the Policy under

Section 66 and also 149 (2) of the M. V. Act 1988 and therefore, the company repudiated their liability under the policy.

Shri Palande informed the company that he had taken permission from RTO specific trip on that day but later a new list of passengers was prepared and given to the RTO Agent but it was misplaced by RTO Agent while getting the permit endorsed from RTO Thane and therefore he was not able to produce the same and hence the list given by the RTO Agent in the RTO Office did not match with the permit. However, as this was lodged with the Agent and supposed to be taken note by them, the claim should be settled.

The company maintained that the time of accident he was carrying the passengers other than the list submitted to the RTO and therefore, he had breached both the terms of permit and policy condition for which there was no question of reconsideration of the claim both the damage to the vehicle as also the third party claim filed against him filed by the concerned parties / beneficiaries New India also sent a copy of the Investigator's remarks that he had submitted false bills as well as inflated bills which amounted to fraud.

Shri Vilas Raghunath Palande, approached the Insurance Ombudsman by this letter dated 9.12.2004 giving facts of the case and requesting intervention in the matter of settlement of his claim with the Company.

The Policy had a limitations as to use clause, which restricted the coverage for the use of the vehicle only under a Permit within the meaning of the Motor Vehicles Act 1988 and such a carriage falling under Sub - section 3 of Section 66 of the Motor Vehicles Act 1988 which was violated and therefore, non-entertainable. It is understood that the accident had given rise to death and injury claims of third parties which has become the subject of MACT case being adjudicated at the Tribunal as per statutory provisions. It is evident that all relevant issues are going to be discussed at the Tribunal where the Insurance Company, New India is defending. In the facts and circumstances, the repudiation of claim by the Company cannot be faulted, and there is no case for interference.

**Mumbai Ombudsman Centre**  
**Case No. GI - 513 of 2004 - 2005**  
**Smt. K. Bhavani**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 21.6.2005**

Smt. K. Bhavani, had taken a Policy from United India Insurance Co. Ltd., Vashi, to cover her Two Wheeler Bajaj Saffire Model 2003, for Total IDV of Rs. 29,000/- under Two Wheeler Package Policy. In the first week of March 2004, while Smt. Vidyapeeth, the vehicle failed to run due to oil drainage from the engine as a result the engine got seized and was stranded on the road. The vehicle was given for repair to Shri Mohammed Khan road side mechanic located at Belpada. The repair of scooter was delayed and vehicle parts were kept dismantled for about 2 months in open condition and left unattended by the side of the road. As and when Shri Krishna Kishore visited the place to see the status of his scooter, he observed that the mechanic did not turn up at the place and the scooter was in dismantled condition. Hence he reported the matter to Kharghar Police Chowki and to Kalamboli Police Station under NC Regn. No. 697 / 04 dt. 25.5.2004 under Section IPC 427. The vehicle was further moved to M/s. S. K. Automobile Ltd., Turbhe for repairs.

The Insured lodged a claim with United India Insurance Company on 29.5.2004 for theft of parts under the policy, the Company appointed M/s K. V. Gaikwad, Automobile Surveyor cum Investigator to investigate and assess the loss as per the estimate given by the insured from M/s. S. K. Automotives, authorized dealer for Bajaj vehicles. The Company repudiated the claim stating that it was observed that the vehicle was given for repairs to Shri Mohammad Khan, roadside mechanic located at Belpada, Kharghar and the mechanic had delayed the repair for three months and failed to handover the possession of the vehicle to the Insured on 25.5.2004. During the investigation by the company's surveyor Shri Gaikwad it was observed that there was no proper security at the garage, only an empty wooden tool box was found at the roadside. The vehicle was then shifted to M/s S. K. Automotive for repairs on 10.6.2004. As per the statement given by the husband of the Insured, Shri Krishna Kishore some engine parts, battery which were found in the dicky portion of the scooter were handed over to M/s S. K. Automotive but this fact was not informed to the surveyor either at the time of final survey or at the time of reinspection of the scooter for repair. Hence the company regretted their inability to entertain the claim as per condition No. 4 of the Two Wheeler Package Policy.

Aggrieved with the decision of the Company, Smt. Bhavani approached the Ombudsman vide letter dated 28.12.2004 seeking intervention in the matter of settlement of his claim.

It is observed that the vehicle was kept in an unguarded manner, leading to missing of some unserviceable parts at the time of survey which was against the policy condition. The important point is that the Insured cannot treat the accidented vehicle as not her own because there is an insurance policy on the contrary the Insured should behave as if uninsured. Secondly, until the liability is admitted by the Insurance Company the safekeeping of the Insured property and general maintenance is on Insured's account and any loss or damage or aggravation of damage should be solely her responsibility. In the facts and circumstances, the company's decision to repudiate the claim cannot be faulted. There is no case for interference.

**Mumbai Ombudsman Centre**  
**Case No. GI - 024 of 2004 - 2005**  
**Smt. Pramiladevi M. Shah**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 4.7.2005**

Smt. Pramiladevi M. Shah, Complainant had taken a Policy from United India Insurance Company Ltd., Mumbai, to cover her car Tata Indica. Smt. Pramiladevi M. Shah submitted claim form reporting three incidents of accidents on different dates i.e. 7.3.2003, 9.3.2003 and 15.3.2003. The Company appointed Surveyor Dinesh Dhajibhai & Co., to inspect and assess the loss and M/s. V. B. Associates & Co., as Investigator on 28.3.2003. On the basis of Surveyor's assessment, the company sent a voucher for Rs. 25,529/- to the Insured. Smt. Pramiladevi Mithalal Shah informed the company that the amount of Rs. 25,529/- was not acceptable to her and was returning the voucher with a request to issue a fresh voucher for the entire amount.

Aggrieved with the decision of the company, Smt. Pramiladevi Shah approached the Ombudsman vide letter dated 7.4.2004. In her complaint she stated that the Surveyor had assessed the loss and Informed the garage to start the work on the vehicle. The assessed loss was sanctioned by the surveyor to the tune of Rs. 86,808/-. The car was repaired and the bill was forwarded to the company for reimbursement and the

surveyor had approved the same, but the company sent a voucher for Rs. 25, 529/- which was not acceptable to her.

In absence of any noting in the survey Report or in the Investigation Report or corroborated by the Police Report, it would not be possible for this Forum to pass the value judgement as to what would be the exact amount which should be reimbursed. One thing stands out clearly that the Insured can claim for the exact compensation minus use of the car / depreciation etc., as per the recorded accident. If he amalgamates all the previous accidents which were not reported and gets the consolidated bill for repairs from the Repairer, the Insurance Company would not take any cognizance of the past damages which may have been caused as a result of the accident but not reported to the Insurance Company.

Consequently, based on the above facts and the fact there is no evidence available to support the first two accidents which would have caused substantial damages, the decision of the company to settle the claim as per the Survey Report cannot be faulted.

United India Insurance Company Limited is directed to entertain the claim in question of Smt. Pramiladevi M. Shah, for Rs. 25,529/- as assessed by the Surveyor in respect of her car for the accidental damages on 15.3.2003. There is no order for any other relief.

**Mumbai Ombudsman Centre  
Case No. GI - 420 of 2004 - 2005  
Shri Sujit Ramesh Panchal**

**Vs**

**Cholamandalam General Insurance Co. Ltd.**

**Award Dated 25.7.2005**

Shri Sujit Ramesh Panchal was issued a Package Motor Private Car Insurance Policy by Cholamandalam General Insurance Co. Ltd., to cover his Vehicle Toyota Qualis, Make 2004. The vehicle met with an accident on 26.3.2004 while returning from Shirdi to Mumbai near Wavi Police Jurisdiction. The insured vehicle after hitting 2 oncoming motorcycles, lost control and overturned, injuring the motor cycle riders and two passengers travelling in the insured vehicle. Shri Sujit R. Panchal, intimated about the accident to the Insurance Company, the Company immediately arranged a Survey of the vehicle to quantify the damages.

Based on the Report, the company deputed further an Investigator to ascertain exactly how the vehicle was being used. Based on his findings the company rejected the claim vide their letter dated 23.8.2004 on the ground that the vehicle was given on hire to the NRIs for a trip to Shirdi from Ahmedabad in contravention of Limitations as to use clause of the policy. The Company also held the charge that the Insured did not declare the injuries to the two to the occupants in violation of condition 1 of the policy.

Aggrieved by the decision he represented to the company on 1st September, 2004 and thereafter he approached the Ombudsman by letter dated 14.10.2004 requesting intervention in the matter of settlement of his claim with the Company.

From the records, it is observed that the mileage (speedometer reading) noted by the Surveyors M/s R. R. Thampi reveals coverage of 8512 kms. within a period of less than 2 months from the date of registration, which corroborates with the finding of the investigator M/s V. B. Associates regarding usage of the vehicle for commercial purposes. M/s V. B. Associates, Investigator, has reported that two of the motorcyclist (opponent vehicles involved in the accident) received major injuries and one minor injuries. One of them has already filed a MACT claim and two are following suit. The driver of Toyota Qualis Mr. Deepak Ramesh Panchal has been charged under

Section 279, 337, 338, 427 of PIC and Section 184 of M. V. Act. Among the 8 occupants of the Insured vehicle, 2 of one family (Shahs) and 6 of another group (Acharya), one of 6 of Acharya group, Mrs. Javherben Shah has confirmed in writing that rent towards the use of vehicle was to be paid by the NRIs and the remaining 5 members of Acharya group had left India.

The vehicle was used for hire at the time of accident in violation of the terms and conditions of the Insurance Policy and hence there is no doubt that the provisions of the policy conditions were violated at the material time of accident as there was evidence that the vehicle was plying on hire as per the statement of Smt. Jeeverben Shah which was duly recorded in the Police FIR. The insured had also suppressed the material fact in not declaring the injuries to the two of the occupants in violation of condition 1 of the policy. The MACT case would centre around the lawful use of the vehicle and consequent liability. Motor Insurance Policy is governed by the M. V. Act which is a Statutory Act and any violation constitutes violation of the laws of land which becomes punishable offence. In the facts and circumstances, the repudiation of claim by the Company cannot be faulted and there is no case for interference by this Forum.

**Mumbai Ombudsman Centre**  
**Case No. GI - 375 of 2004 - 2005**  
**Shri Francis Rodrigues**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 29.7.2005**

Shri Francis Rodrigues, had taken a Policy from The New India Assurance Co. Ltd., to cover his for Total Insured Depreciated Value of Rs. 1,50,000/-. The insured submitted claim form to the company informing damage to the vehicle due to accident on 13.7.2004.

The Company vide letter dated 7.11.2003 informed Shri Rodrigues that it was observed from the R. C. Book that his vehicle is registered as LMV Tourist Taxi whereas the driving licence of the driver, Mr. Vijagula Pitchai, was only for LMV and not for Tourist Vehicle. As per the policy conditions, the driver is required to hold an effective driving licence both in terms of validity and the class of vehicle that is being driven at the time of accident. The Company, therefore, regretted their inability to consider the claim on grounds of non possessing a valid transport licence at the time of accident.

Not satisfied with the decision of the Company, Shri Rodrigues represented to the Company on 25th November, 2003 stating that he had asked driver Pitchai to take his car due to emergency and did not realize that he did not have valid transport licence. The Company again replied to him on 11th February, 2004 stating that the matter was referred to their higher authorities who also concurred with the stand taken as per the letter dated 7.11.2003.

Aggrieved by the decision of the company, Shri Rodrigues represented to the Ombudsman vide letter 16th August, 2004 stating that he owns the tourist vehicle and holds a tourist licence but on the date of accident he had to take of another driver as he was down with fever and therefore, requested intervention in settlement of claim.

From the records provided by the company, it is observed that the driver Shri Pitchai was not holding a valid Driving Licence to drive a Tourist Vehicle at the material time of accident, which amounts to violation of policy condition as well as a breach of the provisions of the M. V. Act. Motor Insurance Policy is governed by the M. V. Act which is a Statutory Act and any violation of the laws of land which becomes a punishable offence.

In the facts and circumstances, the repudiation of claim by the Company cannot be faulted. There is no case for interference by this Forum.

**Mumbai Ombudsman Centre**  
**Case No. GI - 507 of 2004 - 2005**  
**Shri Balkrishna Singh**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 22.8.2005**

Shri Balkrishna J. Singh, had taken a Policy from to cover his Bajaj Auto Rickshaw, Model 2003, for Total Insured Depreciated Value of Rs. 1,00,000/- under Passengers Carrying Commercial Vehicle Policy & Package. The Company vide letter dated 13th December, 2004 informed Shri Singh that as per the Investigator's report, it was observed that on 3rd July, 2004 at around 2230 hours the driver of the Insured Vehicle (I.V.) stopped the I. V. of the side of the Marol Military Road with the passengers in the I. V. and went to answer nature's call. While doing so he left the I. V. with the occupants in the I. V. and also left the ignition keys in the I. V. The occupants took the advantage of the keys being left in the I. V. and ran away with the I. V. The Company, therefore, regretted their inability to consider the claim on the ground that the driver of the I.V. was negligent due to which the loss occurred and treated it as No Claim Aggrieved by the decision of the company, and not receiving any reply to his representation to the Company, Shri Singh complained to the Ombudsman vide letter dated 24.12.2004.

It is observed from the Investigation Report, that the theft occurred when the driver of the Insured Vehicle has stopped the vehicle with the passengers in the vehicle and had left the ignition keys in the vehicle. The point is that the vehicle was kept with the ignition keys in the vehicle almost in public view without care which would amount to negligence which an ordinary prudent person would not allow to happen. In this context, the public awareness against the miscreants on the road is now so heightened that one would like to take lurking precaution. The Police and BMC Authorities are making the people aware of the lurking miscreants lying in wait to utilize the opportunities and one would not provide such an opportunity on a platter as has been done in this case. In the facts and circumstances of the case, the decision of The New India Insurance Company to deny the claim Policy cannot be faulted.

**Mumbai Ombudsman Centre**  
**Case No. GI - 497 of 2004 - 2005**  
**Shri G. Shankaran**

**Vs**

**The New India Assurance Co. Ltd.**

**Award Dated 30.8.2005**

Shri G. Shankaran, Complainant had taken a Policy from The New India Assurnace Company Ltd., Mumbai, to cover his car Opel Astra Car. The Car was damaged due to fire accident on 15.3.2004. The Company appointed their Surveyor, M/s R. R. Thampi to inspect the vehicle and assess the loss and accordingly a settlement intimation voucher for Rs. 37,424/- was sent to the Insured. Not satisfied with the decision of the company, Shri G. Shankaran represented to the Grievance Cell vide his letter dated 2nd September, 2004 to reconsider the claim. The Company vide letter dated 15.2.2005 informed Shri Shankaran that there was no scope to reopen the issue of claim amount and once again sent the discharge voucher.

Aggrieved by the decision of the Company, the Insured, approached the Ombudsman by letter dated 14.12.2004 giving facts of the case and seeking intervention in the matter of settlement of his claim.

The liability of the company for the loss is based on the assessment by the Surveyor M/s. R. R. Thampi, Surveyor. It is a job of the specialists and the Surveyors are duly approved by Insurance Regulatory & Development Authority (IRDA) and then empanelled by the Company to use their services as independent professionals. In view of this, their report is technically viable and, therefore, should be acceptable to this Forum if it is found that they have following the basic requirement in arriving at a settlement.

It will be appreciated that this Forum would have no recourse but to depend on the documents already produced and with the passage of time which has intervened in between there cannot be any question of looking into the case afresh. It is necessary to point out that the Repairers are aware of the systems followed in settling Motor Insurance cases viz. the labour charges and replacement of parts consistent with the damage are duly agreed between them as payable on Company's account or Insured's account depending on age of the vehicle and depreciation to be applied. There is no reason to believe that it was not done, so as the company appointed a competent licensed Surveyor. Hence broadly the settlement terms would be acceptable as explained in the body of this Forum cannot raise a point against the settled market practice and convention which avoids spurious parts and unhealthy practices. Above all, there was a meeting of the Insured with the Company and the Surveyor in which all issues must have been discussed.

In the background of this analysis, the charges payable by the Company as per the Survey Report which was duly explained by them in a letter to the Insured giving the Company's liability would be in order. However, considering the fact that some damages and replacement of corresponding parts could be a borderline liability for which the Insured should get the benefit of the doubt, this Forum recommends an ad-hoc increase of Rs. 5,000/- to the admissible amount arrived at by the Company to resolve the dispute.

**Mumbai Ombudsman Centre**  
**Case No. GI - 67 of 2004 - 2005**  
**Smt. Hutoxi Keki Mobedjina**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 9.9.2005**

Smt. Hutoxi Keki Mobedjina, Complainant had taken a Policy from The New India Assurance Company Ltd., Mumbai, to cover her car Ford Escort Diesel Model 1999, for Insured's Declared Value (IDV) of Rs. 2,00,000/- under Private Car Package. Smt. Hutoxi Keki Mobedji intimated to the company that her car met with an accident on the Mumbai Pune Express Way on 18th February, 2004. The Surveyors recommended settlement of claim on Total Loss basis for Rs. 1,20,000/-.

The matter was then referred by New India to their Mumbai R. O. I for opinion and thereafter the Company vide letter dated 15th January, 2005 informed Smt. Mobedjina that the Company had addressed a letter dated 13.12.2004 informing her of their decision to settle the claim on net of salvage basis for Rs. 54,500/- after taking into account salvage value of Rs. 45,000/- and excess of Rs. 500/- and accordingly the disbursement voucher was sent to her. The Company requested the insured to return the discharge voucher signed in full and final settlement of the claim and collect the

cheque. Not satisfied, the Insured approached the Ombudsman giving facts of the case and seeking intervention in the matter of settlement of her claim for Rs. 2,00,000/- and interest @ 18 % for delayed settlement of his claim.

The analysis reveals that the chronology of events moving back and forth has caused substantial delay and each time, it could be ascribed to the Insured's refusal to accept a particular form of settlement which the Company considered appropriate. It would be evident that as many as 3 offers were made to the Insured and finally the Company agreed to the settlement requested by her on the condition that the salvage would be handed over to the Company. As regards the basis claim amount now offered, New India has agreed to settle Rs. 1,99,500/- after deducting policy excess of Rs. 500/- from the IDV this Forum has no issue to join. However, it would be necessary to mention here that the Company had the opportunity of evaluating the IDV at the time of issue of the policy and not thereafter as per the note appearing under Ruling GR 8 of the India Motor Tariff.

Viewed in this context, the Company's decision making was certainly delayed. The only redeeming feature is the fact that the Company wanted to make some offers in between in a bid to settle the claim and, therefore, they were not inactive or had unnecessarily delayed the settlement and was always finding a way, may be following a representation made by the Insured.

As regards interest at 18 % p.a. claimed by the Insured, it would be necessary to refer to the I. R. D. A. (Protection of Policyholder's Interests) Regulations 2002, which recommends a 2 % above the market rate of interest to be charged on delayed settlement of claim. The primary point would be to ascertain cause of delay, whether the delay was incidental and unavoidable or thoroughly intentional and could have been avoided. It would therefore be seen that many things contrived causing a substantial delay and taking into consideration all aspects of the matter it is felt that 8 % interest may be allowed as per the norms quoted above, at least from the time that the Head Office conveyed to the Regional Office to settle the claim on IDV basis vide their letter dated 1.3.2005. It is therefore, evident that only direct consequences of the Insured peril can be awarded and therefore, there is no provision as per RPG Rules 1998 Rule 16 (2) for allowing any compensation for so-called mental agony etc. by this Forum.

The New India Assurance Company Limited is directed to settle the claim immediately of Smt. Hutoxi Keki Mebedji, or Rs. 1,99,500/-, being the IDV less policy excess plus 8 % Interest on the amount to be calculated from 1st March, 2005 till the date of settlement. As regards garage rent they should resolve the matter with the Repairers and if the Insured has settled the amount it should be suitably adjusted following their negotiation with the Repairers. There is no order for any other relief.

**Mumbai Ombudsman Centre**  
**Case No. GI - 554 of 2004 - 2005**  
**Shri Uday K. Limaye**  
**Vs**  
**United India Insurance Co. Ltd.**

**Award Dated 15.9.2005**

Shri Uday K. Limaye, owner of Santro Xing 2004 model bearing registration No. MH - 02 - NA 7408 had lodged the complaint with the Insurance Ombudsman initially for delay in settlement of his claim and subsequently, for non settlement of claim by United India Insurance Company Limited, Malad Division with which the car was insured. The

loss was due to an accident which took place inside the tunnel on Mumbai - Pune Express Highway at Khandala. The car allegedly dashed against the wall and got sufficiently damaged and it had to be transported back to Mumbai for repairs. Apparently although the settlement of Net on salvage basis was economical the claimant agreed for settlement of Rs. 3,40,000 taking considerable time of 3 months after the date of accident to convey his consent to the Insurance Company. The Company has raised certain issues bordering on fraudulent measures applied by the Insured. They have also raised the charge of signature not tallying etc. which can be vetted by a handwriting expert. Similarly the Insured felt that the whole process was delayed by the Company and since the IDV was already 5 % less than the Invoice value the settlement offered by the Company was far too low and non-acceptable. In other words, there was no consensus on the settlement nor was there final by the Insurance company to pay the claim.

This Forum has, therefore, the power to issue Award due to direct consequences of the loss and not indirect consequences like bank interest on borrowed capital and other incidental charges as mentioned by the insured. It is also noted that the company issued a letter to the Insured asking for certain clarifications in January, 2005, which was followed up later and the consequences are not known to this Forum. The Insurance Company, United India, in their self - contained note to this Forum dated 16.2.2005 has raised certain issues including the issue of incorrect signature on the proposal form which have not been apparently articulated and transmitted to the Insured, by a clearly drafted letter.

In the facts and circumstances. I revert this complaint back to the Company because of the basic infirmities enumerated above with a clear direction that they should resolve the issues raised by them in association with the Insured and the claimant after taking appropriate step comprehensively through investigation, legal opinion etc., as their Management deem fit.

**Mumbai Ombudsman Centre**  
**Case No. GI - 321 of 2004 - 2005**  
**Shri Sambhaji P. Tekwade**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 26.9.2005**

Shri Sambhaji P. Takwade, had taken a policy with the The New India Assurance Co. Ltd. Mumbai to cover his Tempo Trax. Earlier the said vehicle was insured with the New India, Emca House Office from 1.7.2001 to 30.6.2002. There was a gap of insurance between the two policies. The vehicle met with an accident on 26.7.2002 near Dhamani Village on Mumbai - Goa Highway. The Driver and occupants were injured and the matter was reported to Sangameshwar Police Station. Shri Sambhaji Tekwade, intimated about the accident to the Insurance Company, the Company referred the matter to their investigator Shri R. T. Naik for investigation.

The Company vide letter dated 22nd December, 2003 informed the Insured that the Investigator, Shri R. T. Naik. had written a letter to him on 26.6.2003 to produce the driver for his statement and also asked for list of occupants, but apparently it was not complied with nor details of occupants were provided. As the matter did not move, the company vide letter dated 14th July, 2004 rejected the claim based on Investigator's Report on grounds of misrepresentation of facts as the statement given by the Insured and the driver Shri Harilal Naik were contradictory and did not vouch the facts.

Aggrieved by the decision the Insured approached the Ombudsman by letter dated 23.8.2004 requesting intervention in the matter of settlement of his claim with the Company.

The mileage (speedometer reading) at the time of insurance showed 42,477 kms. and at the time of accident it was 43,399 kms. which reveals 1000 kms. in 5 days. M/s R. T. Naik, Investigator has reported that Police Chargesheet of Sangameshwar Police Station vide C. R. No. 35 / 02 shows that the driver Shri Harish Hunna Chavan has been charged u/s 279-337-339-427 I.P.C. R/W 184 M. V. Act submitted in JMFC Devrukh court case No 541 / 02.

The vehicle was used for hire at the time of accident in violation of the terms and conditions of the Insurance Policy and hence there is no doubt that the provisions of the policy conditions were violated at the material time of accident. The statement of the Insured, and the driver were contradictory. However, the statement given by one of the occupants mentions that his relative had taken the vehicle owned by Shri Tekwade on friendship basis (with diesel at his cost). Even this itself is a proof for some consideration money being paid in lieu of use of the vehicle. Motor Insurance Policy is governed by the M. V. Act which is a Statutory Act and any violation constitutes violation of the laws of land and which becomes a punishable offence. Secondly the Insured also admitted how and why the driver went towards Ratnagiri instead of regular route was not known to him. The most important person i.e. the Driver did not or was not allowed to give any statement as called for by the Investigator and the Company, There was inadequate substantiation of the claim coupled with non-cooperation by the Insured. In the facts and circumstances, the repudiation of claim by the Company cannot be faulted and there is no case for interference by this Forum.

The claim of Shri Sambhaji P. Tekwade, in respect of his Vehicle due to accident is not sustainable.

**Mumbai Ombudsman Centre**  
**Case No. GI - 574 of 2004 - 2005**  
**Shri Jasbir Singh**  
**Vs**  
**The New India Assurance Co. Ltd.**

**Award Dated 29.9.2005**

Shri Jasbir Singh approached the Office of the Ombudsman on behalf of the Insured Smt. Narinder Kaur, Wife of Savinder Singh, that the claim lodged by her with New India Assurance Company Ltd., D. O. 130700 was not settled even after submitting relevant documents. The vehicle No. MH - 04 - P - 0322 met with an accident on 24th September, 2003 at 4.30 hours and was placed for repairs with M/s Ghuman Auto Engg. Works, Tagore Nagar, Vikhroli Mumbai The New India Assurance Company was asked to give the details and they responded comprehensively with relevant records and self contained note dated 13.4.2005.

On perusal of the note, it appears that the accident took place at MTDC Nagar, Amravati Road in the early morning hours in which allegedly two more vehicles were involved. The Police Panchanama did not confirm / establish the date and time of the accident and the police authorities have not conducted any investigation. Apart from this initial comment, New India has made the following observations, based on the final Survey Report and also Investigation Report submitted by M/s Om Nityanand Enterprises, Mumbai.

The Company held the view that such inflated estimates and the corroboration of the same by the Insured amounted to malafide intention. Against all these charges, the

Insured Smt. N. Kaur and Complainant, Shri Jasbir Singh had their view points which have also been seen by this Forum. New India have confirmed that the Insured has not been able to prove beyond doubt the date and time of accident in their letter dated 13th April, 2005.

It is evident from the above statement of the company that they were yet to take a final decision regarding the settlement of the above claim. Moreover, they had pointed out certain basic requirements and some anomalies even in the statement of the accident etc., for which appropriate police report was called for by them. The parties involved in the dispute were more than two contracting parties i.e. New India and Insured Smt. N. Kaur.

As per provisions of the RPG Rules 1998, there cannot be any adjudication by this Forum in this scenario. Moreover, this Forum has limited powers to decide on extraneous witnesses, cross-examine them, call all parties involved, to resolve the dispute. New India also has not concluded the claim and as per their confirmation, the final decision would be taken only after receipt of clarification regarding discrepancies and the anomalies pointed out by them. As this Forum cannot order a separate investigation and evaluate that report for further consideration because of the limited powers as explained above.

In the facts and circumstances, the complaint is reverted back to the Company because of the basic infirmities enumerated above with a clear direction to both parties that they should resolve the issues raised by them in coordination with each other after taking appropriate steps comprehensively through further investigation, legal opinion etc., as the Company's Management would deem fit. There is no order for any other relief.