



भारतीय बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY OF INDIA

No. IRDA/ENF/ORD/ONS/ 252 /09/2021

Final Order in the matter of

Mack Insurance Surveyors and Loss Assessors Pvt. Ltd.

[Based on the reply to the Show Cause Notice (SCN) dated 10/06//2020 and submissions made during the hearing through video conference held on 06th July, 2021 at 03:00 p.m., chaired by Member (Non-Life)]

Background: -

1. The Insurance Regulatory and Development Authority of India (Authority) had conducted during 22/07/2019 to 26/07/2019 an onsite inspection of M/s. Mack Insurance Surveyors and Loss Assessors Pvt. Ltd. (SLA).
2. The Authority forwarded a copy of the Inspection Report to the SLA on 27/08/2019 seeking comments and the SLA's comments were received on 16/09/2019. Upon examining the documents on hand and submissions made by the SLA, the Authority issued Show Cause Notice (SCN) to the SLA on 10/06/2020 which was responded to by the SLA vide letter dated 04/09/2020.
3. As requested therein, a hearing through video conference was given to the SLA on 06th July, 2021. Mr. HP Singh, Executive Director and Mr. Chander Shekhar, Executive Director attended the hearing on behalf of the SLA. On behalf of the Authority, Shri Prabhat Kumar Maiti, GM (Enforcement), Shri Pankaj Kr. Tewari, GM, Surveyors, Shri B. Raghavan, DGM (Enforcement) and Smt. Nimisha Srivastava, DGM (Surveyors), attended the hearing.
4. The submissions made by the SLA in their written reply to the Show Cause Notice and those made during the hearing through video conference and the documents submitted by the SLA in evidence of their submissions have been considered by the Authority and accordingly the decisions on the charges are detailed below.

5. Charge No.1

Violation of Regulation 13(2) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 and Reg. 15(4), 15(5)(i), 15(5)(ii) of IRDAI (Protection of Policyholders' Interests) Regulations, 2017.



Observation: The SLA has delayed in submission of survey report to the insurance company. The delay in submission of sampled survey reports ranges from 240 days to 604 days.

From the details furnished by the SLA, it is observed that they have a practice of sending late reminders to insured, not intimating the insurer about the delay being caused or non-cooperation of the insured. The SLA didn't even seek extension from the insurer in most of the cases.

Summary of Reply to SCN:

They have been continuously following up with the insured through reminders, written as well as telephonic, under information to insurers. They submitted that such reminder with copies to insurer may be treated as intimations to insurers with regard to the delay and seeking of extension from insurers. In case there is delay, same is due to various factors like - delayed submission of documentary evidences by the insured, various verifications, salvage settlement, discussions with the insured, obtaining consent of the insureds on final assessments etc. The SLA submitted reasons against each such cases of delay, however no documentary evidence produced in support of the efforts claimed to have been taken by them.

Decision:

Regulation 15 of IRDAI (Protection of Policyholder's Interest) Regulations 2018 and Regulation 13 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015; specifies the process to be followed in case of additional time required to complete the survey. The SLA is cautioned for delayed submission of survey reports and advised to comply with said Regulations; in the matter of submission of survey reports.

6. Charge No. 2:

Violation of Regulation 4(15) (4) and 12(1) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015.

Observation: The database of all the employees & directors who undertook the survey jobs mentioned the names of 70 employees & 6 directors. However out of 76 such employees & directors; only 23 were holding a license to act as a SLA. The directors and employees holding a license to act as SLA undertook only 6723 out of 12046 survey jobs during FY 2018-19 as carried out by the SLA. Moreover, surveyor master file from the SLA's computer systems revealed that there are 855 SLAs. Hence, the SLA relied heavily on the employees who were not holding a license to act as a SLA for carrying out survey jobs entrusted to it by the respective insurers. Further, as per the data many employees/directors undertook survey simultaneously in places which were hundreds of kilometers away from each other.



Summary of reply to SCN:

The SLA submitted that they utilize services of their employees who do not hold license but have technical qualifications (Engineering, Diploma etc.) and experience / expertise in relevant fields, in survey / inspection, working under regular guidance and supervision of SLAs, only due to their understanding of Regulations i.e. appointment of SLA is not mandatory for the losses of less than Rs. 1 Lakh.

Post hearing, they submitted that such unlicensed surveyors made only a first inspection which is to get information/documents whereas actual work of required functions and duties stated under the regulations are carried on and supervised by the SLA. On the matter of presence of some surveyors at more than one location, the SLA submitted that this is due to typing errors / data entry errors in the software.

Decision:

Regulation 12(2) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015; provides discretion to the Insurer or Insured (who appoints surveyor) whether to assess loss by a licensed SLA, if the amount of loss is less than the threshold limit. Neither this Regulation nor any other regulatory provision provides flexibility to the SLA to engage an unlicensed individual to survey the loss, whatever be the amount of loss. The act of engaging unlicensed individual for conducting survey; is in violation of Regulation 4(15) (4) and 12(1) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015. On analyzing the detailed records of surveys conducted during the Financial Year 2018-19, thirteen (13) surveys were identified, where survey jobs were neither done by licensed surveyor nor such unlicensed individuals are guided by licensed surveyors. Hence, by virtue of the powers vested in it under Section 102(b) of the Insurance Act, 1938, the Authority levies as penalty on the SLA an amount of Rs.13.00 Lakh (Rupees thirteen lakh only), considering those surveys were performed on 13 different dates. The SLA is further directed to ensure that they undertake survey commensurate with their resources and survey job is conducted only by the licensed Surveyor who signs the Survey report.

7. Charge No. 3:

Violation of Regulation 4(15) (3) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015.

Observation: One of SLA's Directors received certain payments directly from insurers. The SLA submitted that the said payments were pertaining to survey jobs undertaken by the said surveyor in his personal capacity prior to joining the SLA i.e. prior to 05.04.17. However, SLA did not provide any documentary evidence such as copy of invoices of fee raised; copy of survey reports etc. in support of this submission.

Summary of reply to SCN:

The concerned Surveyor has procured details of payments received by him during his employment with them from National Insurance Co. Ltd. He has not yet received details of payments received from United India Insurance Co. Ltd. The Surveyor was requested to submit the details as soon as he received the same.

As per the submission the Surveyor one survey was done on 01/09/2016; i.e. during his association with the SLA which was not in their knowledge. He received a fee of Rs. 3908/- in this case. Looking at the amount received, the SLA is of the opinion that this small amount must have been received against some small claim within the threshold limit of one lac where licensed surveyor is not mandated as per IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015.

Decision:

Regulation 4(15) (3) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015; mandates that "Individual SLA who is working as an employee of a company/firm shall undertake survey jobs only of that company/ firm with whom he/she is employed". It is the responsibility of the Corporate SLA to monitor the individual SLA employed by them, on the matter of compliance of the regulatory provisions. There is no evidence that the corporate SLA has taken any action against the individual SLA for the violation committed by him. Corporate SLA is cautioned for the indifferent approach exhibited by them on the matter of violation on the part of their employee SLA. In view of this, the SLA is advised to ensure that they comply with IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015. Any recurrence of the lapse will be viewed seriously.

8. Summary of Decisions:

Charge No.	Provision violated and charge	Decision
1	Charge: Delay in submission of survey reports. Provision: Regulation 13(2) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.	Caution and Advisory
2	Charge: Undertaking survey not in commensurate with their resources Provision: Regulation 4(15) (4) and 12(1) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015	Penalty of Rupees Thirteen Lakh and Direction
3	Charge: Employee SLA worked in individual capacity also.	Caution and Advisory



	Provision: Regulation 4(15) (3) of IRDAI (Insurance Surveyors & Loss Assessors) Regulations, 2015	
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9. As directed under the respective charges, the penalty of Rupees Thirteen Lakh shall be remitted by the SLA within a period of 45 days from the date of receipt of this Order through NEFT/ RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mr. Prabhat Kumar Maiti, General Manager (Enforcement) at the Insurance Regulatory and Development Authority of India, Sy. No. 115/1; Financial District; Nanakramguda; Gachibowli; Hyderabad – 500032.

10. The SLA shall confirm compliance in respect of the above decisions, within 21 days from the date of receipt of this order. The order shall be placed in the upcoming Board meeting and the SLA shall submit a copy of the minutes of the discussion.

11. If the SLA feels aggrieved by any of the decisions in this order, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.

Sd/-
(T.L.Alamelu)
Member (NL)

Place: Hyderabad

Date: 15th September, 2021