



No. IRDA/ENF/ORD/ONS/ 251 /09/2021

Final Order in the matter of

M/s. J.B. Boda Insurance Surveyors & Loss Assessors Pvt. Ltd.

[Based on reply to the Show Cause Notice (SCN) dated 8th June, 2020 and submissions made during the hearing through video conference held on 04th August, 2021, chaired by Member (Non Life).]

Background: -

1. The Insurance Regulatory and Development Authority of India (Authority) had conducted comprehensive onsite inspection of M/s. J.B. Boda Surveyors & Loss Assessors Pvt. Ltd. (SLA) during the period from 05th to 09th August, 2019. The findings of the inspection were forwarded to the SLA on 19th February, 2020 and the response was received on 03rd March, 2020.
2. Upon examining the documents on hand and submissions made by the SLA, the Authority issued Show Cause Notice (SCN) to the SLA on 08th June, 2020 which was responded to by the SLA vide letter dated 10th August, 2020.
3. As requested therein, a hearing through video conference was given to the SLA on 04th August, 2021. Capt. Satish Bhandary, Director, Mr. K V Natarajan, Executive Director and Mr. Dilip Parekh, DGM, attended the hearing on behalf of the SLA. On behalf of the Authority, Shri Prabhat Kumar Maiti, GM (Enforcement), Shri Pankaj Tewari, GM (Surveyors), Smt. Nimisha Srivastava, DGM (Surveyors) and Mr. Udit Malhotra, AM(Enforcement), 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 20 (2) of Chapter VIII of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015

Observation:

As per IRDAI Insurance SLA Regulations, 2015, SLA is required to submit Form IRDAI - 12 within 30th September every year to IRDAI. For the year 2017-18, the SLA failed to submit the annual report within prescribed time limit. In their submission the entity has admitted that they have filed Form-12 for the year 2017-18 on 29/07/2019.



Submission of SLA:

The SLA submitted that their Auditors finalize the Annual Accounts by about October of a year and as soon as they receive the Annual Audited Report from our Auditors, they submit the same to the Authority. In the instant case (FY: 2017-18) it was not submitted due to inadvertent oversight.

Decision:

The submission of SLA is taken note of. However, the SLA is advised to ensure continuous compliance of Regulation 20 (2) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

6. Charge No.2

Violation of Regulation 16 (5) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

Observation:

As per the data submitted by the SLA regarding the surveys performed by the surveyors, some of the surveyors have performed the survey work in areas for which they do not hold the license. For example, Mr. Ravi Narayanan Mundayur has valid license for conducting the survey work for Marine Cargo, Marine Hull and Misc but he has also performed survey work of Fire and Engineering. In case of Mr. S. C. Sahoo, who has valid license for conducting the survey work for Fire, Marine Cargo and Marine Hull but he has also performed the survey work of Miscellaneous.

Submission of SLA:

In 3 out of 4 survey reports indicated under the observation, Surveys were carried out by Late Mr. Ramakrishnan Nair who passed away before finalising Survey Reports. Hence Capt. Ravi Narayanan M. had to finalise the Survey Report and sign the Survey Reports as Regional In-charge, though he did not have a valid license to carry out the survey in the 3 reports.

In case of other survey report, the Survey was carried out by Mr. B.C. Parida who has licence for Misc. Category. On the day the Survey Report was finalised, Mr Parida had gone on outstation work. Since the Insurer and Insured were in a hurry, Mr. S.C. Sahoo being a Licensed Surveyor signed the Survey Report to expedite.

Decision:

In case of 3 out of 4 surveys reports, the submission of the SLA that they were all signed by Capt. Ravi Narayanan M who did not have valid license for Fire and Engineering department, is not acceptable. Further, in other case a surveyor having valid license for conducting the survey work for Fire, Marine Cargo and Marine Hull has performed the survey work of Miscellaneous department. Both the above are



clear violation of Regulation 16 (5) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015, which mandates that “SLA shall not accept or perform survey works in areas for which he does not hold a license”. In the latter case, the justification given by the SLA that the survey report was signed by the surveyor who did not possess the licence for the said discipline (viz. Miscellaneous) as the insured and insurer were in a hurry and he had signed the report to expedite is not at all acceptable as in many other cases involving large delays, the SLA did not show the same enthusiasm. Thus the act of the surveyor to carry out survey in an area for which he did not hold licence is a clear violation of the provision referred to above.

Therefore, by virtue of the powers vested in it under Section 102(b) of the Insurance Act, 1938, the Authority levies a penalty of Rs. 4,00,000 (Rupees four lakh only) on the SLA for the above said violation. The SLA is further directed to ensure that the Surveyor appointed by them should not accept or perform survey works in areas for which he does not hold a license in order to ensure compliance of Regulation 16 (5) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

7. Charge No. 3:

Violation of Regulation 13 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015 and Regulation 15 of IRDAI (Protection of Policyholders’ Interests) Regulations, 2017.

Observation:

It was observed that the corporate surveyors have delayed in submission of survey reports, during the year 2017-18 & 2018-19.

As per Regulation 13(2) of the IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015, the Surveyor shall submit his report within 30 days of his appointment and in case of special or complicated surveys; surveyor can seek extension of maximum 6 months for submission of his report. Hence, in all cases/circumstances, the maximum time allowed for submission of report is 7 months (30 days + 6 months of extension). In the sample cases verified by the inspection team, there are 5 claims in respect of which the survey reports were submitted after 7 months. In case of delay in submitting the reports, the surveyor has not submitted that they have obtained extension of time from the concerned insurer/insured as the case may be.

Submission of SLA:

The surveyor has given case-wise response/reason in relation to the delay. The SLA stated that in case the relevant documents are not received, they kept reminding the Insured over telephone and/or in writing. Copies of these mails are endorsed to the Insurers. Hence both Parties are kept informed. Hence the spirit of Regulations has been maintained and purpose served.



Decision:

Regulation 15 of IRDAI (Protection of Policyholder's Interests) Regulations 2018 and Regulation 13 of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015, specifies the process to be followed in case additional time is required to complete the survey. The SLA is cautioned for the lapse and directed to ensure compliance of said Regulation in letter and spirit.

8. Charge No. 4:

Violation of Regulation 16(13) & 16 (14) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015.

Observation: The Surveyor is not maintaining fees received details for the surveys done. On enquiry, it is found that many insurers have not reimbursed the survey fees even after many months, sometimes for more than two years. Also there is no breakup of survey fees. Regulations mandate that Surveyors shall keep important records of the survey reports, photographs and other important documents for a period of three years and furnish the same and such other specified returns, as and when called for by the Authority or by any investigating authority or the insurer.

Submission of SLA:

The SLA submitted that their computerized Accounts Package gives required details of Bills (Invoices) raised and Payments received for which printed Receipts are issued. Survey files contain all the relevant claim related documents and photos. These Insurance claim files are retained for at least three years. The Invoices give break up of their fees, Conveyance expenses, Photographs Charges, Hotel expenses for outstation work etc. Policy and relevant claim numbers where available are also indicated in their Invoices.

The SLA further submitted that their Invoices will not indicate the record of claim related documents maintained. These documents with copy of Survey Report and Invoice are maintained in the relevant Survey File.

Decision:

The SLA submitted that their Survey files contain all the relevant claim related documents and photographs. However same could not be verified during the inspection. Hence the SLA is advised to maintain all the records as specified in Regulation 16(13) of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015, and to make those records available to the Authority etc., so as to ensure compliance to the said regulation in letter and spirit.



9. Summary of Decisions:

Charge No.	Provision violated and charge	Decision
1	Charge: Non-submission of Audit Report in time Provision: Regulation 20 (2) of Chapter VIII of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015	Advisory
2	Charge: Performing survey works in areas for which surveyor does not hold a license Provision: Regulation 16 (5) code of conduct, Chapter VI of IRDAI (Insurance Surveyors and Loss Assessors) Regulations, 2015	Penalty of Rupees Four Lakh and direction
3	Charge: Delay in submission of Survey Reports Provision: Regulation 13 of IRDAI (ISLA) Regulations 2015 and also Regulation 15 of (Protection of Policyholders Interest) Regulations, 2017	Caution and Advisory
4	Charge: Not maintaining relevant documents. Provision: Regulation 16(13) & (14) of (Insurance Surveyors and Loss Assessors) Regulations, 2015	Advisory

10. As directed under the respective charges, the penalty of Rupees Four 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.

11. 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.

12. 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: 14th September, 2021