



Ref. No:IRDAI / NL / ORD / ONS / 204 / 12 / 2018-19

Date: 19.12.2018

**ORDER**

**In the matter of M/s. Royal Sundaram General Insurance Company Limited -  
Settlement of Motor Claims**

Based on the reply to Notice to Show Cause dated 26<sup>th</sup> April, 2017 issued to M/s. Royal Sundaram General Insurance Company Ltd. and their submissions made during the personal hearing chaired by Sri. P.J. Joseph, Member (Non-Life), Insurance Regulatory and Development Authority of India (hereinafter referred to as IRDAI/ the Authority) on 3<sup>rd</sup> July, 2017 at the office of the Authority, 3<sup>rd</sup> Floor, Parishrama Bhavanam, Basheerbagh, Hyderabad, the following are being stated:

**(I) Background**

On receipt of a few complaints relating to General Insurers settling lesser amounts than the Insured Declared Value (hereinafter referred to as IDV) in case of motor vehicle total loss / theft claims, the Authority had called for motor claims data from General Insurers.

Upon analysis of the data received from Royal Sundaram\_General Insurance Company Limited (hereinafter referred to as the Insurer / the Company), the Authority had conducted focused onsite inspection of the Insurer during 17<sup>th</sup> to 19<sup>th</sup> October, 2012 on settlement of Motor (Own Damage) Total Loss/Theft Claims cases. The inspection covered the settlement of motor claims by the Insurer during the financial years 2009-10 and 2010-11.

The Authority communicated the findings of the Inspection to the Insurer vide letter dated 28<sup>th</sup> June, 2016. Upon examining the submissions made by the Insurer vide their letter dated 12<sup>th</sup> August, 2016, the Authority issued a 'Notice to Show Cause' dated 26<sup>th</sup> April, 2017 which was responded to by the Insurer vide their letter dated 15<sup>th</sup> May, 2017. As requested therein, a personal hearing was given to the Insurer on 3<sup>rd</sup> July, 2017. Sri S.

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Thirunavukkarasu, Sr. Vice President, Head (Motor Claims), Sri S R Balachandher, Company Secretary & Chief Compliance Officer were present in the hearing on behalf of the Insurer. On behalf of the Authority, Sri P.J. Joseph, Member (Non-Life), Smt. Yegnapiya Bharath, Chief General Manager (Non-Life), Sri. K. Mahipal Reddy, Deputy General Manager (NL) and Sri. P. Narasimha Reddy, Officer on Special Duty, were present in the personal hearing.

### **(II) The Charges**

#### **Charge No.1:**

The Company has violated the Provisions of General Regulation 8 of All India Motor Tariff, 2002 while settling motor claims, which states as follows:

*“For the purpose of TL/CTL claim settlement, this IDV will not change during the currency of the policy period in question.”*

*“The IDV shall be treated as the ‘Market Value’ throughout the policy period without any further depreciation for the purpose of Total Loss (TL) / Constructive Total Loss (CTL) claims.”*

#### **Charge No.2**

The Insurer has violated File & Use Guidelines / Circulars issued by the Authority from time to time advising General Insurers that they shall continue to use the coverage, terms & conditions, wordings, warranties, clauses and endorsements of the erstwhile tariff of classes of insurance covers until further orders.

- a) Circular ref. no.021/IRDA/F&U/Sep-06 dated 28-09-2006
- b) Circular ref. no.048/IRDA/De-tariff/Dec-07 dated 18-12-2007
- c) Circular ref. no.066/IRDA/F&U/Mar-08 dated 26-03-2008
- d) Circular ref. no.19/IRDA/NL/F&U/Oct-08 dated 6<sup>th</sup> Nov, 2008
- e) Circular ref. no. IRDA/NL/CIR/F&U/073/11/2009, dated 16-11-2009
- f) Circular ref. no. IRDA/NL/CIR /F&U/003/01/2011 dated 06-01-2011



**(III) Submissions by the Insurer**

The gist of submissions made by the Insurer in (a) reply to the findings of Inspection, (b) reply to Notice to Show Cause, (c) Personal hearing) and (d) Post-Personal hearing communication are as under.

- (a) 1. Total Loss – Theft Claims were settled after discussion with the insured and duly supported by their consent letter.
2. The Company is constrained with additional expenses to be incurred whenever there is a deficiency in documents (like Key lost / RC book lost).
3. The Company's efforts in tracing a stolen vehicle are curtailed due to delay in intimation.
4. The reason for arriving at a settlement value which might be lower than the IDV is shared with the claimant before getting the consent letter and both the IDV and the settlement value were indicated in the consent letter. It was further clarified that these claims were treated as 'Non-standard settlement'.
- (b) 1. We reiterate our (above) response. Further, we confirm that the approach adopted is a 'customer-centric' approach and the desire of the policyholder has been the major factor for the decision so arrived.
2. Our philosophy has always been to consider the matter from a customer perspective and never to deny (either fully or partially) any claim based on fine prints applying the thumb rule.
3. We confirm that the settlement of claims made is in line with the tariff, guidelines and general claims approach followed by insurance companies from time immemorial.
- (c).1. In all the (Total Loss/ Constructive Total Loss) cases, the policyholders have been explained in a transparent manner. In certain cases, the customers were not willing to go for repair. In such cases, we have explained to the claimants and taken their consent. It has been a win-win situation.
2. The market is not having uniform IDV and every insurer adopted their own IDV. The challenges are still continuing. In all the roll over policies, the company has to go by the IDV taken by the previous insurer. The information on IDV and

the variations therein comes at the time of claim. The market value has case to case impact due to variations in the vehicle models.

3. The obtaining of consent letter from the claimant has been adopted as a market practice. It is a negotiated settlement that ensured transparency. We agree that IDV is sacrosanct but followed the best options for customers after discussions.

4. The claimants have not raised any complaints with us. Our Company has lowest denials of claims. We have customer-centric approach. We have acted in utmost transparent manner and our intentions were 'beneficial' to the claimants.

5. As regards Theft claims, the Company has to incur huge cost in Courts / Police stations in case of missing RC / other vehicle documents. As such, these claims cannot be treated as normal claims and the same has been explained to the claimants.

6. There is no formal Standard Operating Procedure to note the IDV. It is a negotiated claim settlement. It is only to ensure a win-win situation.

7. The settlement value is not being followed at present in all such cases. The challenges remain between the estimate and variations and fluctuations in IDV.

(d) We confirm that all standard Constructive Total Loss (CTL), Total Loss (TL) and Theft (Total Loss) claims would be settled at IDV as the base Sum Insured and as per the policy terms and conditions.

#### IV. Examination of the issues

(a) The provisions of the erstwhile tariff do not entitle the Insurer to arbitrarily deduct any amount from the IDV in respect of TL/CTL claims. Though the Insurer has stated that *the reason for arriving at a settlement value which might be lower than the IDV is shared with the claimant before getting the consent letter*, there is no record of explanation, in writing, to the policyholders, in certain cases. I do not agree that merely obtaining a consent letter from the claimants would indicate that the IDV was mutually negotiated and discussed, leaving aside the legality of such negotiation and discussion to reduce the IDV on grounds not on record.



- (b) It is not disputed that in case the policyholder has breached a material condition or is guilty of contributory negligence, he may not be entitled to the full claim, depending upon the gravity of each such breach or contributory negligence. Reduction *per se* may not be incorrect if it is, for valid reasons, duly communicated to the policyholder at the time of issuing the policy. If reduction is made for valid reasons as mentioned above, such reductions cannot be deemed to be reduction of IDV (which is the Sum Insured). Just because there is a Sum Insured, it does not mean that under all circumstances irrespective of policyholder's contributory negligence or breach of material conditions leading to the loss, the full Sum Insured must be paid. However, the principle of natural justice would warrant communication of the rationale and reasons for deductions made, to the claimant. In the cases cited in the inspection records, I proceed to examine whether the above principle has been complied with or not.
- (c) Sample cases are taken for examination (details as per claim records).

Claim No.	Reduced amount in % (to claim payable)	Observations from claim records
Sample 1	9.8%	Nil
Sample 2	5.3%	Nil
Sample 3	30.1%	- Delay in claim intimation - Not taken reasonable steps to safeguard the insured vehicle
Sample 4	5.2%	Original RC and 2nd key are misplaced
Sample 5	15.0%	Nil
Sample 6	25.0%	Delay in intimation
Sample 7	9.6%	Original RC was stolen with the insured vehicle
Sample 8	30.1%	Not taken reasonable steps to safeguard the insured vehicle
Sample 9	10.4%	Insured vehicle was taken away and other key misplaced
Sample 10	9.6%	Original RC was stolen with insured vehicle - Difference in IDV- hence claim negotiated
Sample11	15.8%	IDV negotiated

Sample12	25.2%	NIL
Sample13	25.9%	IDV negotiated
Sample14	21.1%	NIL
Sample15	23.1%	IDV negotiated
<i>Policy deductibles are applied in all the above samples.</i>		

The above sample cases indicate that the claim settlement procedure followed by the Insurer might not be a 'win-win' situation in certain cases (as proclaimed by the Insurer in the submissions), especially from the customer's perspective. It is observed from claim records of a few sample cases that the claimant, in the consent letter, declares the value of the vehicle, *as on the date of theft, as less than IDV*. The standardized wording in the 'consent letter' does not consist any specific reason/s for arriving at the 'Settlement Value' which is less than IDV. The Insurer has accepted that there was no Standard Operating Procedure (SOP) in arriving at the said 'Settlement Value'. The 'Settlement Value' itself is contrary to the provisions of GR 8. As such, the consent letter does not support the stance of the Insurer that the above cases had been done with 'utmost transparency'.

- (d) The Insurer has attributed the reduction in claim settlement to the alleged deficiency in documents / non-compliance of policy conditions by the policyholder/ market not having uniform IDV/ variations in IDV, etc. However, there are only some notings to this effect, in the claim note at the time of processing the claim. Even assuming that there is merit in the claim settlement for a value lower than IDV, reasons for reduction should have been clearly shown to the policyholder (as required under the provisions of Regulation 9(5), of IRDA (Protection of Policyholders' Interests Regulations), 2002).

## **V. Conclusion**

GR 8 of IMT 2002 (as described in Charge 1) deals with regard to treatment of IDV during the currency of the policy period. Circulars referred to in Charge 2 reiterate various provisions (including GR 8) of erstwhile Tariff.

An analysis of the above facts shows that the relevant provisions, (General Regulation 8 of All India Motor Tariff, 2002) and those of relevant circulars indicated under charge no.2 above, have been violated to the extent of having been non-transparent regarding deductions made from the claims. The insurer has maintained that the insureds have been found wanting on some compliances. This, however, does not offer any ground for the insurer to deduct amounts from the claims based on purported discussions with the insureds and arriving at 'negotiated amounts'. In fact, it is seen that there has been lack of transparency in the transaction of these so called discussions as the insureds more often than not have not been given any reasons/ details of deduction made. There is no transparency about what can constitute a non-standard claim and the amounts deducted from the IDV in various cases seem to have been made arbitrarily. The cases, however, as already mentioned above, do reflect instances of claimants found wanting in some respect, of the procedures laid down for the claims.

#### **VI. Decision**

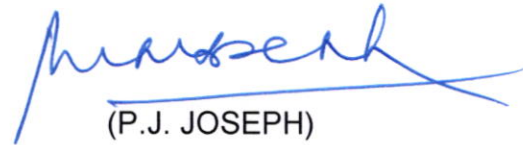
After considering all the above factors, I am of the opinion that Charges 1 and 2 relating to Total Loss/Constructive Total Loss claims stand confirmed and the samples given above stand testimony to this. Simultaneously, certain lacunae in compliances by the claimants have also been observed. Keeping these in mind and in exercise of powers vested in the Authority as per the provisions of Sec. 102(b) of Insurance Act, 1938 (as amended from time to time), I hereby conclude that a penalty of an amount of Rs.5 lakh be imposed on the Insurer.

The penalty of Rs. 5,00,000 (Rs. Five Lakh only) shall be remitted by the Insurer through NEFT / RTGS (details of which will be communicated separately) by debiting shareholders' account within a period of 15 days from the date of receipt of this order. An intimation of remittance by the Insurer may be sent to Smt. Yegnapriya Bharath, Chief General Manager (NL), IRDAI, Sy. No. 115/1, Financial District, Nanakramguda, Hyderabad, 500032.

If the Insurer feels aggrieved by the above decision in this order, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.

Place: Hyderabad

Date: 19.12.2018



(P.J. JOSEPH)

Member (Non-Life)