

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**FIRST APPEAL NO. 828 OF 2013**

(Against the Order dated 24/09/2013 in Complaint No. 78/2007 of the State Commission  
Maharashtra)

1. MAC REMEDIES PRIVATE LTD.  
101, OM SHRI SWATI MANOR, N.C. KELKAR  
ROAD,  
DADAR (W)  
MUMBAI-400028

.....Appellant(s)

Versus

1. NEW INDIA ASSURANCE CO. LTD. & ANR.  
THROUGH DIVISIONAL OFFICE-II, UNIT  
NO.160500, JEEVAN SUMAR, PLOT NO.3,LIC  
BUILDING,5 CIDCO,  
AURANGABAD  
MAHARASHTRA  
2. ECONOMIC LOGISTIC LIMITED,  
27, RAGHUNATH MAHARAJ, STREET  
HABIB BULIDNG,  
MUMBAI-00003

.....Respondent(s)

**BEFORE:**

**HON'BLE MR. DINESH SINGH,PRESIDING MEMBER**

**For the Appellant :** Mr. Neville Majra, Advocate

**For the Respondent :** For the Respondent No. 1 : Mr. J.P.N. Shahi,  
Advocate

For the Respondent No. 2 : Ex-parte

**Dated : 10 Feb 2021**

**ORDER**

**ORDER**

**HON'BLE MR. DINESH SINGH, PRESIDING MEMBER**

1. This First Appeal has been filed under Section 19 of The Consumer Protection Act, 1986, hereinafter referred to as the 'Act 1986', challenging the Order dated 24.09.2013 in C.C. No. 78 of 2007 passed by The State Consumer Disputes Redressal Commission, Maharashtra, hereinafter referred to as the 'State Commission'.

The Appellant, MAC Remedies Pvt. Ltd., was the Complainant before the State Commission, and is hereinafter being referred to as the 'Complainant Co.'.

The Respondent No. 1, The New India Assurance Company Ltd., was the Opposite Party No.1 before the State Commission, and is hereinafter being referred to as the 'Insurance Co.'.

The Respondent No. 2, Economic Logistic Ltd., was the Opposite Party No. 2, before the State Commission, and is hereinafter being referred to as 'Carrier Co.'

2. Vide this Commission's Order dated 14.08.2015 the Carrier Co. was ordered to be proceeded against *ex parte* .

3. Heard arguments from Mr. Neville Majra, learned Counsel for the Complainant Co., through video conferencing on 24.12.2020.

Perused the material on record.

4. Briefly, the Complainant Co. took an insurance policy from the Insurance Co. for its goods in transit for a sum insured of Rs. 1 crore for the period 29.07.2005 to 28.07.2006. A consignment of medicines was dispatched through a truck of the Carrier Co. on 26.08.2005. During transit, the truck met with an accident. The Complainant Co. made a claim of Rs.31,35,841/68p. The Insurance Co. repudiated the claim.

5. The State Commission vide its impugned Order dated 24.09.2013 dismissed the Complaint.

6. It is seen that the State Commission has passed a well-appraised and well-reasoned Order, on contest.

7. The essence of the matter is as below:

[a] The Insurance Co. based its repudiation on an Investigation Report dated 09.07.2006 furnished by one Robert Rodrigues & Co., C.A.

The Investigator concluded its Report as below:

## 11 . CONCLUSION:

In the light of the discussion in the foregoing paragraphs of this report, it is conclusively proved that the claim lodged on the insurer is fake, fabricated and fraudulent. The insured have consigned the water damaged and expired goods or dead stock of their own and their sister concerns in order to obtain the undue benefit under the policy. The fake documents were prepared and submitted to substantiate the claim. The goods were also despatched to such parties who were not at all in the trade of pharmaceutical goods. The goods carried in the same vehicle by others were not damaged. It is not possible to jump out the material

from the locked load body unless there was major accident of the vehicle. No spot survey of the vehicle or the goods was conducted. There was also no Police Panchanama. The circumstantial evidences prove that the transporter and the insured have connived and in collusion with the surveyor have tried to deceive the insurance company.

**[b]** The Insurance Co. repudiated the claim vide its letter dated 27.12. 2006, with the reasons for repudiation succinctly recorded therein:

Re : Your Marine transit Claim No.

Policy No. 160500/21/05/02/00000086

Alleged Loss dated 31.08.2005

In the above regard, we had appointed M/s Robert Rodrigues & Co. Chartered Accountants and Licensed Surveyors & Loss Assessors to investigate into your claim. It has been discovered during their investigation as under:

1. You have dispatched the water damaged goods and expired/dead stock of your own concern and your sister concerns in order to obtain undue benefit under the policy.
2. There is no evidence of any accident leading to the loss. There is no police panchanama or spot survey report of the accident leading to the loss.
3. The extract of police dairy submitted by you purportedly of Bilaspur police station. But there was no such entry in the police diary of Bilaspur police station.
4. The goods were despatched to such parties which were either not existing or not in the trade or pharmaceutical goods.
5. The goods carried in the same vehicle pertaining to other consignors were not damaged.

**8** A plain reading of the Investigation Report and the repudiation letter makes it abundantly clear that the Complainant Co. made a claim apropos which sufficient facts and reasons were forthcoming to show that it was “fake, fabricated and fraudulent”.

**9.** Investigation by an insurance company is fundamental in determining the amount payable to the insured. Investigation cannot be disregarded or dismissed without cogent reasons (it, but, also goes concomitantly that the rationale recorded in the Investigation should be convincing and pass credence in scrutiny).

In the instant case at hand, the Investigator has furnished a detailed well-reasoned Report, enumerating the facts unearthed, referring to the evidence therefor. The rationale for arriving at its conclusion is convincing.

**10.** No reason is forthcoming to question the conclusion made by the Investigator that the claim lodged was “fake, fabricated and fraudulent”, made “to deceive” the Insurance Co.

No reason is forthcoming to question the self-contained self-speaking repudiation by the Insurance Co., made on the basis of the said Report of its Investigator.

**11.** Bad air pervades the whole case of the Complainant Co.

Consumer Protection Fora are not meant to be vehicles to further “fake, fabricated and fraudulent” claims, as has been attempted by the Complainant Co. [The Insurance Co. is a central government public sector undertaking, as such, the (mis) attempt was apropos public monies.]

This necessitates cost. [The Complainant (the ‘Complainant Co.’) is a private limited company, and not an ordinary common non-judicial person without wherewithal.]

**12.** The Appeal, being totally ill-conceived and completely bereft of merit, is dismissed with imposition of cost of Rs. 50,000/- on the Complainant Co., through its Chief Executive, to be deposited in the Consumer Legal Aid Account of the State Commission within four weeks of the pronouncement of this Order, failing which the State Commission shall undertake execution, for ‘ *Enforcement* ’ and for ‘ *Penalty* ’, as per the law.

**13.** The connectivity with the learned Counsel for the Insurance Co. was not satisfactory on 24.12.2020, when the case was argued by the learned Counsel for the Complainant Co. As such, the learned Counsel for the Insurance Co. could not be heard on 24.12.2020. However, the Complainant Co.’s Appeal having failed, there is no need to trouble the learned Counsel for the Insurance Co.

**14.** The Registry is directed to send a copy each of this Order to the Complainant Co., its Chief Executive, the Insurance Co. and the State Commission within three days of its pronouncement.

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**DINESH SINGH**  
**PRESIDING MEMBER**