



Ref. No:IRDAI/NL/ORD/ONS/००३/01/2019

Date: 03.01.2019

**ORDER**

**In the matter of M/s. United India Insurance Company Ltd. (UIICL) -  
Settlement of Motor Claims**

Based on the reply to Notice to Show Cause dated 5<sup>th</sup> May, 2017 issued to M/s. United India Insurance Co. Ltd. and their submissions made during personal hearing chaired by Mr. P.J. Joseph, Member (Non-Life), Insurance Regulatory and Development Authority of India (IRDAI) on 5<sup>th</sup> July, 2017 at the office of Insurance Regulatory and Development Authority of India, 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 United India Insurance Co. Ltd. (hereinafter referred to as the Insurer/ the Company), the Authority had conducted focused onsite inspection of the Insurer from 8<sup>th</sup> to 9<sup>th</sup> November, 2012 and on 11<sup>th</sup> January, 2013 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> September, 2016, the Authority issued a 'Notice to Show Cause' dated 5<sup>th</sup> May, 2017 which was responded to by the Insurer vide their letter dated 25<sup>th</sup> May, 2017. As

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requested therein, a personal hearing was given to the Insurer on 5<sup>th</sup> July, 2017. Mr. Bharat Dash, General Manager and C.F.O., Ms. Gauri Venkatesan, DGM and Chief Compliance Officer were present in the hearing on behalf of the Insurer. On behalf of the Authority, Mr. P.J. Joseph, Member (Non-Life), Ms. Yegnepriya Bharath, Chief General Manager (NL), Mr. K. Mahipal Reddy, Deputy General Manager (NL) and Mr. 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 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 and (c) Personal hearing is as under.

- (a) (1). The reduction in IDV while settling total loss claims was not arbitrary. The reductions were made on rational grounds and as per the norms in vogue in the Industry.
- (2). These reductions were mostly due to violation of Policy conditions such as not taking care of the safety of vehicles as if an uninsured person, delay in intimating the claims to Police authorities and also to the company, non-submission of one set of keys etc.
- (3.) These claims would normally fall under "Voidable" category. However, keeping in mind that the customer should not be put to undue hardship, such cases were considered on non-standard basis after explaining these aspects to the insured through negotiations. Further such claims were settled after taking the consent in writing by a separate declaration and / or full and final discharge voucher.
- (4). It is pertinent to note that in all these cases, claimants have accepted the settlement in full satisfaction and have not made any further complaint whatsoever in nature, confirming that they were convinced of our decision.
- (5). It is submitted that only in a few cases, the Company had reduced the settlement amount due to gross overvaluation of IDV at the time of underwriting. These were a few instances of deviations and not the general practice followed by the Company. Even in such cases, we had taken consent from the claimants and treated the claims as negotiated settlement.
- (6). These deviations were happening to a great extent due to the discretion available to fix the IDV in our previous IT system. With the roll out of Core Insurance solutions and necessary corrective measures, systems and controls are in place to obviate such wrong fixation of IDV.
- (b) (1). The main difficulty in fixing correct IDV at the time of insurance renewal, is the lack of updated and reliable data on ex-showroom prices of various vehicle makes and models on a pan India basis.



(2). The Company had actively taken up for incorporation of the common IDV master in our centralized software system whereby the problems of incorrect fixing of IDV at the time of underwriting would be effectively addressed.

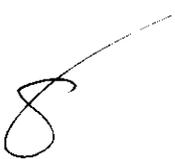
(c) (1). The provisions of General Regulations 8 of IMT 2002 are very well appreciated and taken as sacrosanct. This has been reflected in our circulars issued periodically to our operating offices. We have reinforced GR 8 provisions on IDV as the sum insured at the time of underwriting and at the time of claim settlement for TL/CTL and Theft claims through our OD Claims handling guidelines also.

(2). In majority of the cases, IDV has been taken as the basis. However, reduction of IDV happens in some cases due non-standard settlement of the claim due to delay in claim intimation and delay in filing FIR and non-submission of keys. The Company has issued documented guidelines for settlement of claims on non-standard basis with a reduction limit up to 25% or minor deductions wherein there is deficiency or breach of policy conditions, which are determined according to the merits of the claim and the particular deficiency or shortfall in requirements.

(3) However, in a few cases, there have been aberrations and the tendency for higher valuation of IDV was found, depreciation was applied at the time of claim by reducing the IDV or there was reduction of IDV without recording the reasons for the same. But in such instances also, the customer's consent was taken before settling the claim at a value less than the IDV.

(4) The basic cause of the problem in over-valuation is that there are practical difficulties in ascertaining the IDV. The basis of IDV is the manufacturer's listed selling price of the brand and model of vehicle less depreciation as per schedule provided in tariff. The Ex-show room prices vary from city to city. Discounts such as seasonal / festival discounts are given. All these are not reflected in the selling price. Hence, the discretion was exercised by the underwriters in fixing the IDV at the time of underwriting. In such cases, there was negotiation with the customers. Only after getting consent from the customers, the claim was settled.

(5) The Company addressed the above lapses and aberrations in 2011 by taking steps such as contracting with an external agency for providing IDV chart. However, the database was not complete. The Company had also tried to get the database from local dealers. The Company had participated in the project to have a common IDV database for the industry.



**(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 attributed the reduction in claim amount to the alleged violation of policy conditions and such cases were considered on non-standard basis after explaining to the insured through negotiations, there is no record of explanation, in writing, to 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 claims records).

Claim No.	Reduced amount in % (to claim payable)	Observations from claim records
Sample 1	0.8%	Reasons for reduction are not recorded.
Sample 2	24.2%	Reasons for reduction are not recorded.
Sample 3	23.0%	Market value was not scientifically arrived at while issuing the policy.

Sample 4	10.0%	To arrive at the Company's Liability, taken opinion from the Investigator – Deduction of 10% is made for depreciation– Reasons for applying the 'depreciation' are not recorded.
<ul style="list-style-type: none"> <li>• Policy deductibles are applied in all the above samples.</li> </ul>		

As indicated in the table above, certain cases do not contain any reasons for deduction. The insurer has attributed the reduction in claim amount to the alleged violation of policy conditions such as not taking care of the safety of vehicles, delay in intimating the claims to Police Authorities and also to the insurer, non-submission of one set of keys, aberrations in estimating IDV at the time of underwriting, etc. 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 per Regulation 9(5), of IRDA (Protection of Policyholders' Interests Regulations), 2002.

(d) The Insurer admitted that despite their initiating corrective measures, lapses occurred in complying with the relevant regulations.

**(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 claims would normally fall under 'voidable' category but were considered on non-standard basis, not to put the customer into undue hardship. Further, the Insurer has stated that regarding claims settled on non-standard basis, some deduction was made for violation of Policy conditions. This however, does not offer any ground for the Insurer to deduct amounts from the claims with the claimants and arriving at 'negotiated amounts'. 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, do reflect instances of claimants found wanting in some respect, of the procedures laid down for the claims.

**(VI) Decision**

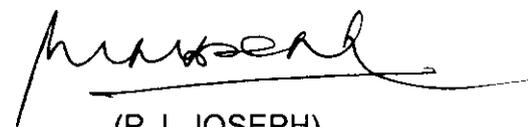
After considering all the above factors, I am of the opinion that Charges 1 and 2 relating to Total Loss/Constructive Total Loss claims stand confirmed and the samples given above stand testimony to this. Simultaneously, certain lacunae in compliances by the claimants have also been observed. Keeping 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 Ms. 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: 03.01.2019



(P.J. JOSEPH)

Member (Non-Life)