IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12300 of 2021

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Sarfaraz, Aged 39 years (Male), Son of Md. Sabab, Resident of Mohalla-44, Imlital, P.S.-Danapur, District-Patna.

... ... Petitioner/s

Versus

1. The Chairman-cum-Managing Director National Insurance Company Limited (A Government of India undertaking) Registered and Head Office 3, Middleton Street, Kolkata-700071.
2. The Branch Manager, National Insurance Company Limited, Patna Branch-2, Jeevan Prakash Bhawan, Fraser Road, Patna-800001.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Vinay Mistry, Advocate
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

4 22-08-2022 The petitioner is aggrieved by letter dated 12.02.2021 whereby his claim for considering indemnifying for the theft of the vehicle has been rejected. The Repudiation Letter is reproduced below:

*“ **Repudiation Letter***
Re.: Claim No: 17080131191196010064
Policy No: 17080131181142899636
Vehicle No: BR-O1-DP-6891 (MARUTI DZIRE ZDI+ AMT/2017)

Dear sir,

We refer to your above mentioned claim; please note that your claim stand has been repudiated on the grounds of “FIR Lodged in P.S. very delay (after four days) & the claim intimation to insurance company has been given after 7

> *days.*
>
> *Further your attention is drawn towards the Condition Number 1 of the policy which inter-alia states that "In case of theft or other criminal act which may be the subject of a claim under this policy the insured shall give immediate notice to the police and co-operate with the insurance company in securing the conviction of the offender.*
>
> *Also the policy condition no. -4; which narrated that "The insured shall take all reasonable steps to safeguard the vehicle from loss or damage and to maintain it in efficient condition; the vehicle shall not be left unattended without proper precaution being taken to present further loss.*
>
> *Thus, the Violation of the Policy condition No.-1 & condition No.-4*
>
> *We had informed you through pre-repudiation letter dated 04.02.2021. Your subject claim is not admission under the terms and conditions of the policy and stands repudiated."*

A perusal thereof shows that the main reason stated therein for repudiation of the claim is that the FIR was lodged four days later. It appears that the matter has not been examined beyond that by the National Insurance Company.

We find the order absolutely arbitrary and illegal. The National Insurance Company which assured the petitioner to look into all his claims and regularly received the premium cannot be expected to act in this manner.

Under the circumstances, the order in question is hereby quashed. The matter is remitted to the same company for reconsideration and pass an order at the earliest, in any case, not later than six weeks.

It shall be at liberty to seek necessary information from the police, if necessary.

The petition stands disposed off.

(Rajan Gupta, J)

(Dr. Anshuman, J)

P. Kumar

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