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**(1996) 01 NCDRC CK 0030**

**In the National Consumer Disputes Redressal Commission**

ALAGU MEENAL

APPELLANT

Vs

SARVAMA G.

RESPONDENT

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**Date of Decision :** 15-01-1996

**Acts Referred:**

**Citation :** 1996 0 NCDRC 78 : 1996 1 CLT 543 : 1996 1 CPC 185 : 1996 1 CPR 29 : 1997 2 CPJ 115 : 1998 1 CPJ 37

**Hon'ble Judges :** V.BALAKRISHNA ERADI , S.S.CHADHA , S.P.BAGLA J.

**Advocate :** S.NAND KUMAR , G.PRAKASH , Sitha Ram , K.N.BHARGAVAN

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**Judgement**

1. THIS Original Complaint No. 298 of 1994 was filed with this Commission on 7.11.194.

2. SMT . Alagu Meenal, wife of Ganapathy, is complainant and the following three are the opposite parties: (i) Sarvana, G., Proprietor, M/s. Chinasamy Layout Road, New Siddhapur, Coimbatore-641 044. (ii) The Senior Regional Manager, Hindustan Petroleum Corporation Ltd., Tatapuram Post, P.B. No. 1601, Ernakulam, Cochin-682 014. (iii) United India Insurance Company Ltd., Regional Office, Dr. Nanjappa Road, Coimbatore-641 018

In her petition the complainant has stated that they were running a hotel at Coimbatore where they were selling high quality sweets from their shop and for which purpose they took an L.P. gas connection from M/s. Geekay Gas Agencies, the 1st opposite party, which is an L.P. Gas Distributor at Coimbatore for Hindustan Petroleum Corporation. The complainant has alleged that on 4.9.1988 at 12.30 p.m. unexpectedly and unfortunately a big fire occurred with a blast in the kitchen room due to gas leakage from one cylinder. The fire accident, according to the complainant, took place due to gas leakage and not because of any default or human act. It has been further alleged by the complainant that in this blast 7 persons died on the spot and 7 others sustained grievous and serious injuries. The injured persons were admitted in the hospital for treatment of fire burns.

3. A criminal case was filed before the Judicial Magistrate No. II, Coimbatore under Sections 304(a), 337,338 and 285 of the I.P.C in C.C. No. 1535/89 against the complainant's husband and the Manager of the sweet stall. However, both of them were acquitted in this case.

4. THE complainant filed a claim with the Regional Office of the United India Insurance Company Ltd. for 3rd party insurance on 16.8.1994. As the alleged explosion had taken place on 4.9.1988, no action was taken by the Insurance Company on this claim since it was filed almost 6 years after the occurrence of the incident. Thereafter, the complainant filed this petition before this Commission on 7.11.1994 seeking a direction to the opposite parties to pay 3rd party insurance, amounting to Rs. 47,15,000/- with costs on the basis of Insurance Policy No. 170400 1310/63/LFG 11/00003/68. The contention of the complainant is that due to the negligence and carelessness of the 1st opposite party viz., M/s. Geekay Gas Agency, Coimbatore, their claim for the insurance was not processed inspite of the fact that a Lawyer's notice had also been issued by them to the 1st opposite party on 1.9.1994. As mentioned earlier, this petition was filed with this Commission on 7.11.1994. On 23.2.1995 a notice was issued on the petition for condonation of delay of more than 6 years.

5. ALL the 3 opposite parties have contested this petition on the ground of limitation as well as on merits. In our view the basic question to be decided before any discussion is made on the merits of the case is in regard to the issue of limitation. The affidavit filed by the complainant explaining the delay in filing the petition hardly carries any conviction. The principal reason for delay stated by the complainant is that her husband remained admitted in Arun Surgery Hospital, Coimbatore from 12.9.1990 and was discharged only on 10.8.1994. She herself is a chronic Asthma patient. It has been stated in the petition that within 6 days of discharge of her husband from the hospital, the complainant through her husband presented the 3rd party insurance claim on 16.8.1994 with the regional office of the 1st opposite party through S. Bhaskaran, Executive Incharge, Geekay Gas Agency, Combatores. It has also been stated that the delay in the presentation of the claim was not wanton and that the complainant was neither careless nor negligent. In support of their contention it has been stated that the claim was filed within a week of the discharge of her husband from the hospital.

6. WE have given due consideration to the contents of this petition and the affidavit filed for condonation of delay. We have not been able to appreciate the delay of 2 years between 4.9.1988 when the incident of fire took place and 12 % 1990 when the husband of the complainant was admitted in Arun Surgery Hospital. No explanation for this delay has been given by the complainant. Even otherwise we are not satisfied with the reasons given for delay in filing the claim with the 1st opposite party or with the Insurance Company who have disputed this claim even on merits. We, however, do not propose to go into merits of the petition as we find that this delay of almost 6 years is not adequately explained.

Therefore, this petition is dismissed as time barred. No costs.