

(2014) 11 NCDRC CK 0092

In the National Consumer Disputes Redressal Commission

Brahma Nand Prasad S/O Late Baldev Narain

APPELLANT

Vs

NATIONAL INSURANCE CO LTD

RESPONDENT

Date of Decision : 25-11-2014

Acts Referred:

Citation : 2015 1 CPJ 527

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : SUBHASH KUMAR , R.K.SINGH

Judgement

1. THIS revision petition has been filed by the petitioner against order dated 26 -02 -2014 passed by State Consumer Disputes Redressal Commission, Bihar (in short, "the State Commission") in Miscellaneous Restoration No. 06/2014 National Insurance Co. Ltd. Vs. Dr. Brahma Nand Prasad, by which while allowing application, order dismissing appeal in default was set aside and appeal was restored.

2. COMPLAINANT /petitioner filed complaint before District Forum and learned District Forum allowed complaint vide order dated 27 -11 -2009. Opposite party/ Respondent filed appeal before State Commission and learned State Commission vide order dated 17 -02 -2014 dismissed appeal for non -prosecution. Respondent filed restoration application and learned State Commission vide impugned order allowed application and appeal was restored by impugned order against which this revision petition has been filed.

3. HEARD learned counsel for the parties finally at admission stage and perused record. Learned counsel for the petitioner stated that learned State Commission had no power to restore appeal dismissed in default and committed mistake in restoring appeal by impugned order, hence revision petition be allowed and impugned order be set aside. Learned counsel for the respondent also agreed to this submission that State Commission has no power to review its order.

4. PERUSAL of record reveals that learned State Commission vide order dated 17 -02 -2014 dismissed appeal, as none appeared for the appellant but on filing

restoration application by the respondent, learned State Commission vide impugned order allowed application and restored appeal at its original number. Admittedly, learned State Commission had no power to review its order and in such circumstance was not competent to restore appeal dismissed in default and appellant was required to challenge order of dismissal in default before this Commission.

5. AS impugned order is without jurisdiction impugned order is liable to set aside.

6. CONSEQUENT LY , revision petition filed by the petitioner is allowed and impugned order dated 26 -06 -2014 passed by learned State in Miscellaneous Restoration No. 06/2014 National Insurance Co. Ltd. Vs. Dr. Brahma Nand Prasad is set aside. Opposite party is given liberty to file revision petition against order dated 17 -02 -2014 passed by State Commission.