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**(1996) 10 NCDRC CK 0001**

**In the National Consumer Disputes Redressal Commission**

Hanuman Poha Industries

APPELLANT

Vs

NATIONAL INSURANCE CO LTD

RESPONDENT

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**Date of Decision :** 29-10-1996

**Acts Referred:**

**Citation :** 1997 1 CPJ 71

**Hon'ble Judges :** V.BALAKRISHNA ERADI , S.S.CHADHA , R.THAMARAJAKSHI , S.P.BAGLA , C.L.CHAUDHRY J.

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**Judgement**

1. THE Revision Petitioner herein filed a » Complaint before the District Forum, Gwalior as Case No. 154/92 on its file, the grievance put forward therein being that a claim preferred by the Complainant before the Respondent -National Insurance Co. was not properly considered by the Insurer and the claim was allowed only in respect of a small portion after rejecting the claim for the balance amount put forward by the Complainant. When the case came up for hearing before the District Forum the complaint was rejected by the Forum on two grounds namely that the District Forum, Gwalior had no territorial jurisdiction to hear the complaint since the cause of action had arisen at a place called Datia, Shivpuri which was outside the jurisdiction of the Forum and secondly that the compensation inclusive of interest claimed in the complaint exceeded the pecuniary jurisdiction of the Forum of Rs. 1 lakh and hence the Complainant was directed to approach only the State Commission with the said complaint.

2. THE Complainant thereafter approached the State Commission, Madhya Pradesh at Bhopal with the identical grievance by preferring a fresh complaint. Unfortunately, the State Commission misunderstood the said complaint as an appeal preferred against the aforesaid order of the District Forum and by the order now impugned before us the State Commission purportedly dismissed the appeal on the ground that it was barred by time. On going through the record it is manifest that what had been preferred by the Complainant before the State Commission was not an appeal against the order of the State Commission but was a fresh complaint preferred by him pursuant to the observations maintained in the District Forum's order that the complaint will lie only before the State

Commission since its valuation exceeds Rupees one lakh which was pecuniary limit for the District Forum at that time. The State Commission was, therefore, clearly in error in treating the complaint filed before it as an appeal against the order of the District Forum and in dismissing it on the sole ground that it was preferred beyond 30 days from the date of receipt of copy of the order of the District Forum by the Complainant. The impugned order of the State Commission is accordingly set aside and the case is remanded to the State Commission for de novo disposal, treating it as complaint filed before it, the legal position applicable as regards the pecuniary jurisdiction being that which prevailed as on the date of presentation of the complaint before the State Commission which was prior to the Amendment of 1993. The Revision Petition is accordingly allowed and the case is remanded to the State Commission as indicated above. The parties will bear their respective costs. Revision Petition allowed.