

(2022) 10 J&K CK 0020

In the Jammu And Kashmir High Court

Case No : CONC No. 30 Of 2019, Civil Miscellaneous No. 01, 1860 Of 2019

M/S Bharat Parivahan & Another

APPELLANT

Vs

United India Insurance Co. Ltd. And Another

RESPONDENT

Date of Decision : 17-10-2022

Acts Referred:

Jammu And Kashmir Consumer Protection Act, 1987 — Section 15

Citation : (2022) 10 J&K CK 0020

Hon'ble Judges : Tashi Rabstan, J; Sindhu Sharma, J

Bench : Division Bench

Advocate : R. S. Thakur, Vasharan Thakur

Judgement

Tashi Rabstan, J

CONC No.30/2019 is an application seeking condonation of delay of 399 days in filing appeal against the order of the State Consumer Redressal Commission, Jammu, dated 22.12.2017 directing payment of Rs.4,41,900/-along with interest @6% from the date of filing of the complaint.

Learned counsel for the applicant submits that the delay caused in filing the appeal is not willful. It is averred in para 1 of the delay condonation application that the counsel engaged by applicant did not inform him about the fate of the complaint as he was also not keeping good health during the same period. It is only when the applicant made an application few days back before the Commission, he came to know about the passing of the order. It is further contended by learned counsel for the applicants that the complaint filed before the Commission was not maintainable as the Commission lacked pecuniary jurisdiction for entertaining the complaint in terms of Section 15 of the Consumer Protection Act.

Heard learned counsel for the parties on the delay condonation application.

It is a settled position of law that a litigant cannot be made to suffer injustice

merely because of the default of his counsel. (See: Rafiq & Anr. V. Munshilal & Anr,: AIR 1981 SC 140 and Smt. Lachi and Ors. V. Director of Land Records and Ors.: AIR 1984 SC 41).

Though the delay is huge, however, in view of the judgment of the Supreme Court in Rafiq (supra), we condone the delay of 399 days in filing the appeal subject to payment of cost.

Therefore, the application CONC No.30/2019 is allowed and the delay of 399 days in filing the appeal is condoned. However, the same shall be subject to payment of cost of Rs.5000/- (Rupees Five Thousand only) to the non-applicants within a period of two weeks from today.

Registry is directed to diarize the appeal and list the same on 29.10.2022.