

(2013) 08 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

SATPAL

APPELLANT

Vs

United India Insurance Co. Ltd. Through its Deputy Manager,
Regional Office, SCO No. 123 -24, Sector 17 -B,
Chandigarh, , United India Insurance Co. Ltd. 75, Anaj
Mandi, Fatehabad through its Branch Manager, , United India
Insuranc

RESPONDENT

Date of Decision : 29-08-2013

Acts Referred:

Citation : 2013 4 CPJ 15

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

Final Decision : Petition dismissed

Judgement

1. THIS revision petition has been filed by the Petitioner/Complainant against the order dated 21.09.2012 passed by the Haryana State Consumer Disputes Redressal Commission, Panchkula (in short, "the State Commission") in Appeal No. 628/2012 -United India Ins. Co. Ltd. Vs. Satpal by which, while allowing appeal, order of District Forum allowing complaint was set aside. Brief facts of the case are that complainant/petitioner's vehicle bolero jeep HR -62 -1761 was insured by OP/respondent for the period 5.9.2008 to 4.9.2009. Vehicle was stolen on 13.12.2008 and FIR was lodged on the same day with the Police Station and intimation was also given to OP, but OP failed to settle the claim. Alleging deficiency on the part of OP, complainant filed complaint with the District Forum. OP contested complaint and submitted that complainant informed OP on 15.1.2009, i.e. after more than 30 days from the alleged theft and has violated terms and conditions of the policy. It was further submitted that inspite of repeated letters, petitioner did not supply relevant documents; so, claim was repudiated in August, 2009 and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed complaint against which, appeal filed by the OP was allowed against which, this revision petition has been filed along with application for condonation of delay of 140 days.

2. HEARD learned Counsel for the petitioner at admission stage and perused

record. In application for condonation of delay, learned Counsel for the petitioner submitted that as petitioner was involved in FIR No. 98/2000 under Sections 420, 467, 468, 471, 120 -B IPC and was in acute depression and was not in a fit state of mind, delay of 140 days occurred in filing revision petition which may be condoned. Learned Counsel for the petitioner submitted that delay occurred due to involvement in false FIR which may be condoned and revision petition be admitted.

3. PETITIONER simply mentioned in the application for condonation of delay that he was falsely implicated in FIR No. 98/2000 under Sections 420, 467, 468, 471, 120 -B IPC, but he has not filed copy of FIR or challan and has also not shown result of criminal case. He has mentioned in the application that FIR and detention of the petitioner in custody is not a disputed fact, but admitted by both the parties before learned District Forum. Perusal of order of District Forum which was passed on 16.4.2012 reveals that Counsel for the complainant during the course of arguments submitted that complainant could not submit documents in time due to custody in jail, but later on he submitted all the documents meaning thereby before filing complaint, which was filed on 19.4.2011, petitioner must have come out of jail. Learned State Commission passed impugned order on 16.4.2012 and petitioner has not pleaded any circumstance showing that he was in jail after passing of the impugned order and in such circumstances, there is no explanation for condonation of 133 days delay (as per Registry report). Learned Counsel for the petitioner has placed reliance on : 2008 (4) RCR (Criminal) -State (NCT of Delhi) Vs. Ahmed Jaan in which it was observed that law of limitation is same for private citizen as for State, but certain amount of latitude is not impermissible. In the aforesaid case, delay of 5 years in filing revision was condoned as it was explained by Counsel that file was misplaced in his office due to paucity of space. In the case in hand petitioner has not placed any material to show that petitioner was restrained by any sufficient cause from filing revision petition in time. When he had already come out of jail before more than 2 years, there was no reason for not filing revision petition in time and delay in filing revision petition cannot be condoned in routine. He has also placed reliance on : (2005) 3 SCC 752 -State of Nagaland Vs. POKAO and Ors. in which it was observed that sufficient cause should be considered with pragmatism in a justice -oriented approach. We agree with the view expressed by Hon''ble Apex Court, but in the light of aforesaid observation, we do not find any sufficient cause for condonation of delay.

4. AS there is inordinate delay of 133 days, this delay cannot be condoned in the light of the following judgment passed by the Hon''ble Apex Court. In R.B. Ramlingam Vs. R.B. Bhavaneshwari : 2009 (2) Scale 108, it has been observed: We hold that in each and every case the Court has to examine whether delay in filing the special appeal leave petitions stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition.

5. IN Ram Lal and Ore. Vs. Rewa Coalfields Ltd., : AIR 1962 SC 361, it has been observed; It is, however, necessary to emphasize that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a discretionary jurisdiction vested in the Court by S. 5. If sufficient cause is not proved nothing further has to be done; the application for condonation has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant.

6. HON "ble Supreme Court after exhaustively considering the case law on the aspect of condonation of delay observed in Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation reported in : (2010) 5 SCC 459 as under; We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay if sufficient cause is shown for not availing the remedy within the stipulated time.

Hon"ble Apex Court in : (2012) 3 SCC 563 -Post Master General & Ors. Vs. Living Media India Ltd. and Anr. has not condoned delay in filing appeal even by Government department and further observed that condonation of delay is an exception and should not be used as an anticipated benefit for the Government departments.

7. HON "ble Apex Court in, 2012 (2) CPC 3(SC) -Anshul Aggarwal Vs. New Okhla Industrial Development Authority observed as under: It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986, for filing appeals and revisions in Consumer matters and the object of expeditious adjudication of the Consumer disputes will get defeated, if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras.

Thus, it becomes clear that there is no reasonable explanation at all for condonation of inordinate delay of 133 days. Revision petition is liable to be dismissed on the ground of delay alone.

8. AS far as merits of the case are concerned, learned State Commission rightly

allowed appeal as there was delay of more than 30 days in intimation to Insurance Company and thus, petitioner violated terms and conditions of the policy. Learned State Commission rightly placed reliance on New India Assurance Co. Ltd. Vs. Trilochan Jane and Suraj Mal Ram Niwas Oil Mills (P) Ltd. Vs. United India Insurance Co. Ltd. & Anr. and rightly allowed appeal. We do not find any illegality, irregularity or jurisdictional error in the impugned order and revision petition is liable to be dismissed on merits also. Consequently, revision petition filed by the petitioner is dismissed on the ground of limitation as well as on merits with no order as to costs.