



W.P.(MD)No.15229 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.15229 of 2024
and W.M.P.(MD)Nos.13347 & 13348 of 2024

1. The Branch Manager

Federal Bank, Federal Towers,
Bridge Road Bank Junction,
Aluva, Cochin,
Kerala State - 683101.

2. The Manager

Federal Bank of Limited,
Vettumani, Kuzhithurai P.O.
Kanyakumari District.

... Petitioners

/Vs./

1. Stanley K. Stanly

S/o. Gurupratha Stephenson,
Proprietor,
Skyway International Imports and Exports,
No. 6/106, Lin Cottage, Nesarpuram,
Palliyadi Post, Kanyakumari – 629 169.

2. Max Bupa Health Insurance Co., Limited,

Amma Manor, First Floor, Nelson
Manickam Road, Aminjikarai,
Chennai - 600029.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorari, to call for records of the final order dated



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14.05.2024 passed by the National Consumer Disputes Redressal Commission, New Delhi, First Appeal no. 154 of 2024 (together with I.A. 1.A 3392 and 3393 of 2024 and set aside the same.

For Petitioner : Mr.Sharath Chandran, Senior counsel
for Mr.R.Harikrishnan

For Respondents : Mr.H.Thayumanaswamy for R1
: Mr.K.Rajeshwaran for R2

ORDER

This Writ Petition has been filed challenging the order passed by the National Consumer Disputes Redressal Commission, New Delhi, First Appeal no. 154 of 2024, dated 14.05.2024, thereby dismissed the condone delay application in filing the First Appeal.

2. The first respondent lodged a complaint under Section 17 of the Consumer Protection Act, 1996, before the Circuit Bench of the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai, in C.C.No.19 of 2020, seeking compensation as against the petitioners and the second respondent to the tune of Rs.27,10,000/- for deficiency of



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service and Rs.2,00,000/- towards mediclaim policy, dated 03.03.2017.

The one of the contentions of the first respondent is that though the second respondent as the insurer had undertaken to honour any mediclaim made by the first respondent, but failed to do so. After enquiry, the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai, ordered compensation to the tune of Rs.2,00,000/- with interest at the rate of 9% and periodically a sum of Rs.3,00,000/- as compensation by order dated 02.11.2023, mediclaim as well as the compensation are payable. The petitioners and the second respondent are jointly or severally liable to pay the mediclaim as well as the compensation, along with costs.

3. Aggrieved by the same, the second respondent filed an appeal before National Consumer Disputes Redressal Commission, New Delhi, with delay. Simultaneously, the petitioners had also filed an appeal with delay. However, the condone delay petition filed by the second respondent was allowed by order dated 05.03.2024 in I.A.No.3003 of 2024, on condition that the second respondent shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) together with interest at 9%, as



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ordered by the Tamil Nadu State Consumer Dispute Redressal Commission, within a period of four weeks. The first respondent is at liberty to move an application seeking permission to withdraw the said amount. However, the said condition was not complied with, another application moved by the second respondent, in which, National Consumer Disputes Redressal Commission, received the amount to the credit of F.A.No.131 of 2024. However, the condone delay petition filed by the petitioner herein was dismissed.

4. The only difference between two petitions is that the delay was 17 days in the application submitted by the second respondent and there is 67 days of delay in filing the appeal by the petitioners. Both order passed by different benches.

5. Further, the learned counsel for the first respondent would submit that National Consumer Disputes Redressal Commission, rightly dismissed the application to condone the delay of 67 days in filing the First Appeal, as per the order passed by the Tamil Nadu State Consumer Dispute Redressal Commission, the first respondent approached



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OMBUSMAN as against the rejection of mediclaim. It was ordered on 26.09.2018. Even then the petitioners and the second respondent failed to comply with the order passed by the Insurance OMBUDSMAN. Therefore, the first respondent lodged complaint in C.C.No.19 of 2020 before the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai, for non-compliance of the order passed by the Insurance Company-OMBUDSMAN and also seeking compensation.

6. In view of the above facts and circumstances, National Consumer Dispute Redressal Commission, without considering the order passed by the another Bench in the appeal, in condone delay petition arising out of same award passed by the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai, dismissed the application, to condone the delay of 67 days.

7. In view of the above, the order passed by the National Consumer Disputes Redressal Commission cannot be sustainable and the same is liable to be set aside and accordingly, set aside, on condition that the petitioners shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh



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only) to the credit of Tamil Nadu State Consumer Dispute Redressal Commission, Madurai, without prejudice to the rights of the petitioners, within a period of two weeks from the date of receipt of copy of this order.

8. On such deposit being made by the petitioners, the first respondent is permitted to withdraw the said amount by filing application before the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai. This Writ Petition stands allowed and the F.A.No.154 of 2024 is remanded back before the National Consumer Dispute Redressal Commission, and tag along with F.A.No.131 of 2024. National Consumer Dispute Redressal Commission, is directed to dispose the appeals within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Internet : Yes/No
NCC : Yes / No
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TO:-

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S/o. Gurupratha Stephenson,
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G.K.ILANTHIRAIYAN, J.

LS

Order made in
W.P.(MD)No.15229 of 2024

Dated:
13.11.2024