$~96

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 30th September, 2024***

\+ CM(M) 3515/2024

MANOJ KUMAR JAIN .....Petitioner

Through: Mr. Sunil K Jain, Advocate

versus

NEW INDIA ASSURANCE CO. LTD. & ANR. .....Respondent

Through: Mr. J P N Shahi, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T ***(oral)***

1. Petitioner challenges order dated 15.05.2024 passed by the learned National Consumer Disputes Redressal Commission (in short 'NCDRC') whereby his Revision Petition has been dismissed merely on the ground of limitation.

2. Learned counsel for the respondent/Insurance Company also appears on advance notice.

3. I have heard learned counsel for both the parties.

4. As averred in the complaint filed by the petitioner herein, he had purchased a car. It had been insured with the respondent-Insurance Company. Such car, allegedly, met with some accident. Complaint in question had been filed seeking restoration of the car to its normal working condition as it was before the accident or, in the alternative, reimbursement of the expenditure

incurred in this regard.

5. Such complaint was disposed of in favour of consumer vide order dated 08.09.2015 passed by the learned District Consumer Disputes Redressal Forum (East), Delhi. However, when the Insurance Company filed an appeal before learned State Consumer Disputes Redressal Commission, Delhi the State Commission modified the judgment and permitted the Insurance Company to deduct an amount of Rs. 1,00,475/- from the amount of Rs. 2,66,000/-, which had been allowed by the learned District Forum.

6. Such order was passed by learned State Commission on 06.03.2023.

7. Admittedly, the petitioner (appellant before the learned State Commission) filed an application seeking review of the above said order and said review was dismissed on 07.02.2024 as not maintainable on the ground that since the case was governed by the old Act i.e. Consumer Protection Act, 1986, which did not contain any provision for review.

8. Resultantly, the petitioner filed a Revision Petition before learned NCDRC but such Revision Petition has been dismissed on the ground of limitation.

9. Learned counsel for the petitioner states that since he had already filed a Review Petition before the learned State Commission, he thought it appropriate to wait for the outcome of such Review Petition. He submits that if the Review Petition had been allowed, there would not have been any occasion for him to have even approached learned NCDRC and since the Review Petition was dismissed, the cause of action arose thereafter only for

the purposes of filing Revision Petition and, therefore, learned NCDRC should have reckoned the period of limitation from the date of the disposal of the Review Petition.

10. Learned counsel for the petitioner submits that since under the New Act, there was provision to said effect, the petitioner was, all along under a *bonafide* belief that such review was maintainable and since he had been prosecuting such review application with due diligence, such period should have been excluded by invoking Section 14 of the Limitation Act, 1963.

11. According to learned counsel for petitioner, such fact was also categorically, specified, even in the Revision Petition, *albeit,* no separate application as such had been moved seeking condonation of delay on the ground available under Section 14 of Limitation Act.

12. Learned counsel for the respondent does not dispute the legal position.

13. Indubitably, the petitioner should have been extra circumspect and vigilant and should have moved appropriate application seeking condonation of delay in terms of Section 14 of Limitation Act, 1963, fact remains that such fact was duly pleaded in the Revision Petition.

14. Admittedly, if the period is reckoned from the date of the disposal of the Review Petition, the Revision Petition has been filed within the stipulated period.

15. This Court also cannot be oblivious of the fact that the Act in question i.e. Consumer Protection Act is a beneficial piece of legislation, primarily, for the benefit of a Consumer and a very rigid approach would rather defeat the

very objective of said enactment, causing serious prejudice to such consumer.

16. Reference be also made to order dated 17.05.2022 passed by Hon'ble Supreme Court in SLP(C) No.6489/2022 titled as *Manager, IndusInd Bank Ltd. & Anr. vs. Sanjay Ghosh* wherein the Hon'ble Supreme Court, while condoning the delay in filing the revision petition before the learned NCDRC, has observed that the question of limitation is not to be examined with a view to decline the condonation, but to do substantial justice.

17. It is quite apparent herein that the petitioner had filed a review under a *bonafide* belief and was pursuing the same with due diligence and such Review Petition had even been entertained by the learned State Commission in the first instance and, therefore, it would be in the fitness of the things if delay in lodging the Revision Petition, is condoned.

18. The impugned order is, accordingly, set aside while holding as above.

19. The Revision Petition stands restored to its original number and position and both the parties are requested to appear before the learned NCDRC on 15.10.2024. Learned NCDRC, keeping in mind its Board position, may either take up the aforesaid Revision Petition on said date or on any subsequent date and then dispose of the same of on merits in accordance with law, after hearing both the parties.

20. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 30, 2024/*sw*