

**In the High Court At Calcutta
CIVIL REVISIONAL JURISDICTION
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

**CO/172/2025
SMT. KALYANI DAS
VS
BAJAJ ALLIANZ INSURANCE
COMPANY LIMITED AND ORS.
IA NO: CAN/1/2025**

For the Petitioner : Mr. Pritam Roy, Advocate
Ms. Monisha Roy,
Ms. Silpi Basu, Advocate

For the Opposite Party No. 1 & 2 : Mr. Hirak Barman, Advocate

For the Opposite Party No. 3 : Mr. Tapas Paul, Advocate

Heard & Judgment on: November 19, 2025

Debangsu Basak, J.

1. CAN 1 of 2025 is an application for condonation of delay. For the ends of justice, the causes shown in the application for condonation of delay are accepted as sufficient. Delay in making and filing the revisional application is condoned. CAN 1 of 2025 is allowed.
2. Petitioner assails order dated January 13, 2025 passed by the National Consumer Disputes Redressal Commission in First Appeal No. 1012 of 2024.

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3. By the impugned order, the learned Tribunal, refused to allow an application under Section 5 of the Limitation Act, 1963 on the ground that, appropriate and adequate reasons were not canvassed for condonation of delay.
4. Learned advocate appearing for the petitioner submits that, delay in filing the appeal before the National Commission was of 149 days. He draws the attention of the Court to the application under Section 5 of the Act of 1963 filed before the National Commission. He submits that paragraphs 2 onwards of such application may be construed as sufficient. He contends that, a litigant need not be foisted with the liability of the wrongs of the conducting advocate. Moreover, an Adjudicating Authority in seisin in an application under Section 5 of the Limitation Act, 1963 is required to be lenient. Plausible causes, if shown, should be accepted as sufficient.
5. Opposite party is represented.
6. Petitioner approached the West Bengal State Consumer Disputes Redressal Commission, Circuit Bench, Siliguri with regard to a complaint of repudiation of a contract of insurance. Such complaint was registered as CC 26 of 2019.
7. The State Consumer Disputes Redressal Commission by an order dated June 28, 2024 was pleased to dismiss such complaint. Aggrieved thereby, petitioner preferred an appeal before the National Consumer Disputes Redressal Commission being First Appeal No. 1012 of 2024.
8. Appeal before the National Commission was accompanied with an application under Section 5 of the Limitation Act, 1963.

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9. In its application for condonation of delay, the petitioner, before the National Commission stated that, the application of the appellant was dismissed for default due to the counsel who abandoned the case without informing the counsel and stopped appearing before the State Commission with no prior intimation.
10. In paragraph 3, the petitioner stated that, the complaint before the Commission was dismissed for default as the learned counsel did not appear. In paragraph 4, the petitioner stated that the counsel of the petitioner before the State Commission did not inform the petitioner as to the dismissal of the complaint. It is only in the month of November, 2024, that the petitioner became aware of the dismissal of the complaint. In paragraph 5, the petitioner stated that, the petitioner applied for certified copy of the impugned order which was delivered on November 26, 2024. In paragraph 6, the petitioner stated that therefore the delay was occasioned and that such delay should be condoned.
11. It is trite law while considering an application for condonation of delay under Section 5 of the Act of 1963, the Court is required to be lenient. If plausible causes are shown that should be accepted as sufficient. It is also trite law a litigant should not be made to suffer due to the negligence of the advocate.
12. In the facts of the present case, the petitioner stated that, in his application for condonation of delay, she was not aware of the impugned order till November, 2024 since, the learned counsel engaged by her before the State Commission did not appear in that matter and did not inform her. There is no contrary evidence to establish such claim of the petitioner to be ill-founded.

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13. Petition for condonation of delay also contain explanation as to when the date for application for certified copy was made and the certified copy was filed. The explanation advanced in the application for condonation of delay can be construed to be a plausible one. A construction which benefits a litigant, particularly in a scenario of condonation of delay under Section 5 of the Act of 1963 should be accepted.
14. In such view, the impugned order dated January 13, 2025 passed by the National Consumer Disputes Redressal Commission in First Appeal No. 1012 of 2024 is set aside. First Appeal No. 1012 of 2024 is remanded to the National Commission for hearing on merits with the application under Section 5 of the Act of 1963 being allowed.
15. CO/172/2025 is **disposed of** accordingly.

(Debangsu Basak, J.)