HC-KAR
NC: 2026:KHC:59718-DB
WP No. 2665 of 2023
CNR: KAHC010063542023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MRS. JUSTICE N.V.BHAVANI

WRIT PETITION NO. 2665 OF 2023 (GM-CON)

BETWEEN:

HENRY DENIS MENEZES
S/O LATE CYRIL MENEZES
AGED ABOUT 52 YEARS
R/A THREE HOUSE,
PACHANADY, BONDEL POST
MANGALORE.

...PETITIONER

(BY SRI. CHANDRANATH ARIGA K., ADVOCATE)

Digitally signed by YASHODA K L
Location: HIGH COURT OF KARNATAKA

AND:

THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
A GOVERNMENT OF INDIA UNDERTAKING COMPANY
HAVING ITS BRANCH OFFICE
AT BALMATTA MANGALORE
NOW REP BY REGIONAL MANAGER
UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE 5TH AND 6TH FLOOR,

CNR: KAHC010063542023

KRISHI BHAVAN,
NRUPATHUNGA ROAD,
BANGALORE – 560 001

…RESPONDENT

(BY SRI. A.N.KRISHNA SWAMY, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OR ORDER QUASH THE ORDER DATED 17/12/2022 PASSED IN RA NO.90/2022 ON THE FILE OF KARNATAKA STATE CONSUMER DISPUTES REDRESSAL COMMISSION, BANGALORE (ADDITIONAL BENCH) (ANNEXURE-G) AND ALLOW THE REVIEW APPLICATION NO.90/2022 ON THE FILE OF KARNATAKA STATE CONSUMER DISPUTES REDRESSAL COMMISSION, BANGALORE (ADDITIONAL BENCH) (ANNEXURE-F).

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
AND
HON'BLE MRS. JUSTICE N.V.BHAVANI

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ORAL ORDER

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Despite due notice to the respondent-Insurance Company and this Court directing on 20.08.2026, the learned panel counsel present in Court accept notice on behalf of the respondent. No one appears when the matter is called.

2. Heard the learned counsel for the petitioner.

3. This petition is filed seeking the following reliefs:

a. Quash the order dated 17.12.2022 passed in R.A.No.90/2022 on the file of Karnataka Consumer Disputes Redressal Commission, Bangalore (Additional Bench) (Annexure-G).

b. Allow the Review Application No.90/2022 on the file of Karnataka State Consumer Disputes Redressal Commission, Bangalore (Additional Bench) (Annexure-F).

c. Quash the order dated 01.06.2022 passed in Complaint No.90/2022 on the file of Karnataka State Consumer Disputes Redressal Commission, Bangalore (Annexure-E).

4. It appears that the Complaint No.246/2011 was filed by the petitioner before the District Forum which came to be allowed directing the respondent-Insurance Company to pay

a sum of Rs.7,04,700/- to the petitioner along with interest at the rate of 12% per annum from the date of complaint till the date of payment and also to pay Rs.2,000/- as cost towards litigation expenses.

5. The aforesaid order of the District Commission came to be challenged before the State Commission in Appeal No.974/2014. On 14.02.2022, it is stated by the learned counsel for the petitioner, that the case was directed to be listed for hearing on 01.06.2022. It is stated that on that date of hearing, the learned counsel for petitioner was present but no one appeared on behalf of the respondent/complainant. The case was accordingly dismissed for non-prosecution and the Court clerk recorded on the list against the case appearing at Sl.No.29 as dismissed. However, after the counsel for the petitioner had left the Court, the matter was heard in his absence noting that the respondent did not address his argument before the Commission inspite of sufficient opportunities given to him and the award was passed and consequently, the word 'dismissed' was struck off and the word 'allowed' was written.

6. It is submitted that by the means of the impugned Appellate order, the State Commission had reduced the amount of compensation awarded by the District Commission to Rs.5,87,050/- only on the basis of the report made by the surveyor. The surveyor's report appears at page No.62, in the summary of repair assessment, the original estimate is shown as Rs.9,63,587.00 but in the surveyor assessment, the figure is shown as Rs.5,87,050.08. This figure is assessed by the surveyor after totaling the total labour charges plus cost of spare parts as Rs.7,04,662.32 and after deducting depreciation, excess and less salvage value of parts.

7. It is evident from the aforesaid that the deductions made on the amount of Rs.7,04,662.32 have not at all been considered by the State Commission in the order impugned dated 01.06.2022 or in the order of review. Though, the order passed in review could be said to be in conformity with the provision of Section 50 of the Consumer Protection Act, 2019, however, the fact remains that the complaint was of the year 2011. Learned counsel for the petitioner admits that there was no provision of review in the Consumer Protection Act of 1986.

8. Without there being any consideration by the State Commission with regard to the deductions made by the surveyor in its report, the order could not have been passed as aforesaid. Thus, given the submission made by the learned counsel for the petitioner with regard to the order being changed from dismissal to being allowed, which was also raised by the petitioner in the review petition, we find that the order impugned deserves to be set aside.

9. At this stage, a colleague of Sri. A.N.Krishnaswamy, learned counsel has appeared and states that he needs to file a counter affidavit to this petition. However, in view of the order that we proposed to pass, we decline the request.

10. This petition is accordingly ***allowed***. The order of the State Commission dated 01.06.2022 is set aside and the case is remanded to the State Commission to proceed with the matter after hearing the counsel for the parties. The counsel for the parties are mandated to appear before the State Commission on everyday of listing and co-operate in the early disposal of the appeal.

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Pending IA's stand disposed of.

Any amount deposited by the Insurance Company shall be subject to the final outcome of the appeal.

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(N.V.BHAVANI)
JUDGE

GJM
List No.: 2 Sl No.: 2