

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 14615-14616/2024  
SPECIAL LEAVE PETITION (CIVIL) NOS. 2219-2220 OF 2020

RAJESH KUMAR

...APPELLANT(S)

VERSUS

NATIONAL INSURANCE CO. LTD.

...RESPONDENT(S)

**JUDGMENT****PAMIDIGHANTAM SRI NARASIMHA, J.**

1. Leave granted.
2. The present appeals challenge the order dated 16.07.2019 in Revision Petition Nos. 878-879/2019 passed by the National Consumer Disputes Redressal Commission,<sup>1</sup> which had allowed the respondent's appeal and reduced the amount of payable insurance. The appellant here is the consumer who sought that the respondent-insurer release the entire insurance amount in his favour. The District Consumer

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<sup>1</sup> Hereinafter, referred to as the 'National Commission'.

Disputes Redressal Commission<sup>2</sup> had allowed the complaint partly, whereas the State Consumer Disputes Redressal Commission<sup>3</sup> modified it and allowed the complaint in full. The respondent then approached the National Commission, resulting in the impugned order. The brief facts required for the disposal of these appeals are as follows.

3. The appellant had purchased a Private Car Insurance Policy bearing Policy No. 420503/31/12/6100000851 from the respondent for a vehicle he owned. This policy was applicable for the period 02.07.2012 to 01.07.2013 and it served to compensate the appellant in case the insured vehicle met with an accident. The maximum sum that could be claimed from the respondent was the 'Insured Declared Value', which was fixed at Rs. 5,02,285/- . While this policy was in force, the appellant met with an accident on 25.03.2013 while he was driving the said vehicle and a cow suddenly turned up before it. In an attempt to avoid the animal, he made a sudden turn which caused his car to turn upside down and fall in a ditch.

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<sup>2</sup> Hereinafter, referred to as the 'District Commission'.

<sup>3</sup> Hereinafter, referred to as the 'State Commission'.

4. At the time of the accident, the appellant had a co-passenger along with him. While both the occupants of the car had suffered some injuries, the appellant felt that the co-passenger needed immediate attention. The appellant rushed the co-passenger to a hospital, leaving the car capsized in the ditch. In this state, one of the wires in the car short-circuited, which set the car on fire and it was damaged substantially. While the appellant lodged an FIR on the same day, he wrote to the respondent only on 28.03.2013. The respondent appointed a surveyor, who assessed the damage to be Rs. 53,543.97/- but stated that the damage occurred due to the appellant's omission to take care of the vehicle. Accordingly, the respondent denied the insurance claim citing delay in the intimation and on having left the vehicle unattended, exposing it to further damage.
5. The appellant had approached the District Commission claiming Rs. 5,02,285/- being the insured value of the vehicle. Having considered the matter in detail, the District Commission held that the delay in intimating the insurer was caused due to the appellant's attempts to rescue his co-passenger and that, by itself, cannot be fatal to the insurance

claim. The Commission also found that the appellant's claim was genuine and it is evidenced by prompt reporting to the police. After a detailed examination, the District Commission held that even assuming the short-circuiting could have been avoided by monitoring the vehicle, the appellant would still be entitled to insurance amount on a non-standard basis, that is, with minimal deduction. Hence, it partly allowed the complaint by its order dated 09.11.2016 directing the respondent to release 75% of the insurance amount, i.e., Rs. 3,76,713/-.

6. Aggrieved, both the parties filed cross-appeals before the State Commission. The State Commission allowed the appeal of the appellant fully and directed the release of the entire insured sum of Rs. 5,02,285/- with 9% interest from the date of filing the complaint till actual realization.
7. The insurance company, the respondent herein, filed a revision petition under Section 21(b) of the Consumer Protection Act, 1986 before the National Commission. By the order impugned before us, the National Commission partly allowed the appeal and reduced the insurance amount to just Rs. 53,543/-. While upholding the findings of the District and State Commissions to be correct in finding the delay in

intimation not being fatal and also that the claim of the accident was promptly reported to the police, the Commission, however proceeded to rely on Condition no. 4 of the policy to reduce the insurance payable. As per Condition No.4, the vehicle could not have been left unattended by an insured and if further damage is done because the vehicle is unattended and proper precaution is not taken, then claim is beyond the insurance cover. In the facts of the case, the commission came to the conclusion that the damage due to the short-circuiting was 'damage following the accident' and caused squarely due to the vehicle being unattended. Hence, it held that the damage due to short-circuiting was not payable and the only amount that needed to be paid by the respondent was the damage attributed solely to the accident on 25.03.2013, and not to the short-circuiting following the accident.

8. Challenging the above referred reasoning and conclusions of the National Commission, the appellant filed the present appeals. We have heard Mr. Avinash Sharma, Ld. Counsel appearing for the appellant and Mr. Abhishek Kumar, Ld. Counsel appearing for the respondent.

9. Mr. Sharma submitted that the National Commission went beyond the scope of its revisional jurisdiction and relied on the precedents in *Momna Gauri v. Scooter India Ltd.*,<sup>4</sup> and *Rubi Chandra Dutta v. United India Insurance Co. Ltd.*<sup>5</sup>. He further submitted that in cases of insurance pertaining to motor vehicle accidents, the liability of the insurer must be interpreted strictly.
10. On the other hand, Mr. Abhishek Kumar, Ld. Counsel appearing for the respondent submitted that the National Commission had correctly exercised its revisional jurisdiction in the present case. He submitted that the courts below disregarded the survey report, which is patently erroneous. As for whether the National Commission's was justified in interfering with the concurrent findings, he submitted that the District Commission also found that the vehicle was left unattended by the appellant however, the State Commission did not answer the question as to why the vehicle was left exposed to further damage for a period of three days. He would therefore submit that interference in the revisional jurisdiction

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<sup>4</sup> (2014) 13 SCC 307.

<sup>5</sup> (2011) 11 SCC 269.

against the concurrent findings is fully justified. He also argued that the National Commission correctly applied Condition No. 4 of the policy in excluding the damage caused by the short-circuiting.

11. **Analysis:** We have given the matter our anxious consideration and considered the submissions of both the sides carefully. Section 21(b)<sup>6</sup> of the Consumer Protection Act, 1986 vests the National Commission with revisionary jurisdiction. It allows the National Commission to invoke the same if the State Commission has exercised a jurisdiction not given to it by law, or has failed to exercise it at all, or has exercised the same but with illegally or with material irregularity.
12. On a careful scrutiny of the records of the case, it is seen that both the District and State Commissions had reached a concurrent finding about whether the delay in intimation to the respondent was justified. Both held that this delay was

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<sup>6</sup> “21. Jurisdiction of the National Commission.—

*Subject to the other provisions of this Act, the National Commission shall have jurisdiction—*  
(a) to entertain—

*(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore; and*

*(ii) appeals against the orders of any State Commission; and*

*(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.”*

justifiable and not fatal to the insurance claim. Both the courts had also reached the finding that the damage took place in two phases: (a) once when the vehicle fell into a ditch and capsized; and (b) when the short-circuiting took place due to the car remaining in that state.

13. In our opinion, the National Commission could not have interfered with pure finding of fact arrived at by the District and State Commissions while exercising revisional jurisdiction. It is unclear as to how the National Commission perceived that the State Commission exercised jurisdiction not vested in it or has failed to exercise jurisdiction vested in. There is nothing to indicate in the decision of the National Commission as to whether there is any illegality in the approach adopted by the State Commission or that it had acted with material irregularity.

14. The other ground that the respondent has raised before us is that the survey report was disregarded by the District and State Commissions but the National Commission has correctly examined and relied on it. This submission cannot be accepted, since the State Commission had examined the survey report in detail and in fact found it to be lacking. It

stated that the surveyor's claim that the vehicle was left unattended cannot be accepted since the appellant had justifiable reasons for the same. Furthermore, the finding of the surveyor that the short-circuiting was caused by the appellant himself was not based on any evidence.

15. This Court had the occasion to examine the scope and ambit of jurisdiction of the National Commission while exercising revisional jurisdiction. In *Sunil Kumar Maity v. State Bank of India & Ors.*,<sup>7</sup> it was held that the conditions laid down in Section 21(b) are the only parameters under which a revision may be invoked. If a document has already been considered and rejected by the State Commission, a revision does not lie merely because the National Commission has a different view on the same. Similarly, in *Rajiv Shukla v. Gold Rush Sales & Services Ltd.*,<sup>8</sup> it was laid down that in cases where the courts below have reached findings on facts, the jurisdiction of revision is very limited and must be invoked only when there is a patent illegality in the findings. In *Rubi Chandra* (supra) it

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<sup>7</sup> 2022 SCC OnLine SC 77.

<sup>8</sup> (2022) 9 SCC 31.

was held that even if no patent error, the revisional jurisdiction may be invoked in a case of gross miscarriage of justice.

16. In the present case, no miscarriage of justice is made out by the respondent. The State Commission has addressed all the issues raised before it and found the delay in intimation to be reasonable and that the insurance claim is payable on the damage due to the accident as well as the short-circuiting. The State Commission also examined the genuineness of the accident's claim by considering the police report and discarded the surveyor's report for lack of evidence. It then directed the respondent to pay the entire insured sum giving its reasons for the same. Hence, the appellant is correct in stating that the National Commission has transgressed its jurisdiction by interfering with the State Commission's order.

17. The approach of the State Commission is also correct in interpreting and disapplying Condition no. 4 of the insurance policy. Condition No.4 is reproduced hereinbelow for ready reference:

“[...]

*4. The insured shall take all reasonable steps to safeguard the vehicle from loss or damage and to maintain it in efficient condition and the company shall have at all times free and full access to examine the vehicle or any part thereof or any driver or employee of the insured. In the event of any accident or breakdown, the vehicle shall not be left*

*unattended without proper precautions being taken to prevent further damage or loss and if the vehicle be driven before the necessary repairs are effected any extension of the damage or any further damage to the vehicle shall be entirely at the insured's own risk.*

[...]"

18. In *TEXCO Marketing Pvt. Ltd. v. TATA AIG General Insurance Co. Ltd.*<sup>9</sup>, this Court explained the principles of interpreting and applying exclusionary clauses in insurance policy. Condition No. 4 merely prescribed that in the event of any accident, the vehicle shall not be left unattended without proper precaution being taken. While interpreting such a clause the Court/Commission or Tribunal will see whether the said obligation has been complied with reasonably or not. The context in which accident occurs and the circumstances that prevailed at the time of accident are extremely important to conclude whether the insured has taken reasonable care or not. The facts of the present case are amply clear that the appellant was acting under compelling circumstances when he had to take his co-passenger to a hospital immediately as his condition was precarious. It is not disputed that the co-passenger had also succumbed to the injury. It is also difficult to imagine that how he could have prevented short-circuiting

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<sup>9</sup> (2023) 1 SCC 428.

of the vehicle which had fallen into a ditch. We are of the opinion that the State Commission has come to a correct conclusion that Condition No.4 would not apply in the facts and circumstances of the case. In any event, the respondent has not explained as to how the unavailability of the appellant during the said period has led to further damage of the vehicle and that burden heavily lies on the respondent and the same was not discharged<sup>10</sup>.

19. As regards the delay in intimation is concerned, we may refer to the decision of this Court in *Om Prakash v. Reliance General Insurance & Anr.*,<sup>11</sup> where it was held that the delay may be condoned if it is properly explained.

20. **Conclusion:** For the reasons stated above, we allow the present appeals and set aside the impugned order dated 16.07.2019 passed by the National Commission in Revision Petition Nos. 878-879/2019 and restore the judgment and order of the State Commission directing the insurer to release the entire insured declared value of Rs. 5,02,285/- to the appellant with 9% interest from the date of the consumer complaint till the date of realization.

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<sup>10</sup> National Insurance Co. Ltd. v. Ishar Das Madan Lal, (2007) 4 SCC 105  
<sup>11</sup> (2017) 9 SCC 724.

21. There shall be no order as to costs.

.....J.  
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.  
[SANDEEP MEHTA]

**NEW DELHI;**  
**DECEMBER 17, 2024.**