

**(2024) 11 NCDRC CK 0071**

**National Consumer Disputes Redressal Commission**

**Case No:** Revision Petition Nos.400, 401 Of 2017

United India Insurance Co. Ltd.Vs  
Pradeep Kumar Goel (Dead)  
Through Lrs & Anr

APPELLANT

Vs

RESPONDENT

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**Date of Decision:** Nov. 22, 2024

**Acts Referred:**

- Consumer Protection Act, 1986 - Section 12, 21, 21(b)

**Hon'ble Judges:** Subhash Chandra, Presiding Member; Avm J. Rajendra, Avsm Vsm  
(Retd.), Member

**Bench:** Division Bench

**Advocate:** Rajesh K Gupta, Shefali Jain, Aseem Mehrotra

**Final Decision:** Disposed Of

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**Judgement**

Subhash Chandra, Presiding Member

1. This review petition under Section 21 (b) of the Consumer Protection Act, 1986 (in short, the "Act") is directed against the order dated 10.08.2016 of the State Consumer Disputes Redressal Commission, West Bengal, Haryana, Panchkula (in short, the 'State Commission') in Appeal No. 1365 of 2014 dismissing the appeal against order dated 27.03.2015 of the District Consumer Disputes Redressal Forum, Yamuna Nagar (in short, the 'District Forum') in Complaint No. 532 of 2008 allowing the complaint.

2. We have heard the learned counsel for the parties and perused the records. On 22.08.2017 counsel for the respondent had brought to notice of this Commission that the petitioner had paid Rs 5,98,781/- and Rs.5,51,196/- by way of separate demand drafts dated 16.01.2017 in full and final satisfaction of the impugned orders. Accordingly, the delay of 49

days in the filing of these petitions was condoned vide order dated 23.11.2017. On 03.01.2024 it was also noted that the petitioner had also deposited an additional 50% of the awarded amount.

3. This order will also dispose of RP No 401 of 2017 in view of the fact that both the petitions emerge from the same order. For the sake of convenience, the facts are taken from RP 400 of 2017.

4. The relevant facts of the case, in brief, are that the respondent (since deceased, and represented by Legal Representatives) was the proprietor of M/s Madho Parshad & Sons, Jaroda Gate, Jagadhri dealing in manufacture of brass sheets with a Cash Credit limit from the State Bank of Patiala. Petitioner had covered the respondent through a Burglary BP Policy effective from 25.03.2007 to 24.03.2008 for stock and stock in process of ferrous and non-ferrous alloy for a sum of Rs 14,00,000/-. A claim of loss was filed by the insured on account of theft during the night of 10/11.11.2007. An FIR was lodged and petitioner informed. As claim was disallowed, the District Forum was approached under Section 12 of the Act. On contest, the complaint was allowed. The appeal before the State Commission was dismissed. Hence, this revision petition.

5. The District Forum held that the delay in the filing of the FIR by 2 days and intimation to the petitioner by 9 days was not fatal to the case of the respondent based upon the order of the State Commission, Haryana in *Mohammad Ejaj Vs. United India Insurance Co. Ltd. & Ors.*, 2014 (4) CLT 161. The Surveyor's Report was held to not be valid as a copy of the same had not been supplied to the insured as held in *Bhupinder Singh Vs. National Insurance Co. Ltd.*, 2013 (2) CLT 395. It was also held that the surveyor had incorrectly held that the stock position was not co-related to the documents provided since Audit Report, Balance Sheet audited as per Income Tax Act, invoices and bank statements had been furnished. In appeal, the State Commission held that the reliance by the petitioner on the Surveyor's Report was erroneous since the report concluded that the theft was not possible on the basis of assumption and presumption. It also held that the repudiation on the basis of difference in the books of accounts had not been established on the basis of any evidence led and that merely a minor variation cannot be a ground for repudiation of a claim which had not been established to be false by the Police.

6. The order of the State Commission and the District Forum are detailed and well-reasoned in setting out the reasons for the findings. From the records it is apparent that the petitioner has challenged the impugned order on the very same grounds which were raised before the District Forum as well as the State Commission in appeal. The concurrent findings on facts of these two fora are based on evidences led by the parties and documents on record. The present revision petition is therefore an attempt by the petitioner to urge this Commission to re-assess, re-appreciate the evidence which cannot be done in revisional jurisdiction. Learned counsel for the petitioner has failed to show that the findings in the impugned order

are perverse.

7. This Commission, in exercise of its revisional jurisdiction, is not required to re-assess and re-appreciate the evidence on record when the findings of the lower fora are concurrent on facts. It can interfere with the concurrent findings of the fora below only on the grounds that the findings are either perverse or that the fora below have acted without jurisdiction. Findings can be concluded to be perverse only when they are based on either evidence that have not been produced or based on conjecture or surmises i.e. evidence which are either not part of the record or when material evidence on record is not considered. The power of this Commission to review under section 21 of the Act is therefore, limited to cases where some prima facie error appears in the impugned order. Different interpretation of same sets of facts has been held to be not permissible by the Hon'ble Supreme Court. The petitioner has not brought out any material deficiency or jurisdictional error in the orders of the fora below in the petition.

8. The Hon'ble Supreme Court in *Rubi (Chandra) Dutta* (2011) 11 SCC 269 dated 18.03.2011 has held that:

“23. Also, it is to be noted that the revisional powers of the National Commission are derived from Section 21 (b) of the Act, under which the said power can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order, and only then, may the same be set aside. In our considered opinion there was no jurisdictional error or miscarriage of justice, which could have warranted the National Commission to have taken a different view than what was taken by the two Forums. The decision of the National Commission rests not on the basis of some legal principle that was ignored by the Courts below, but on a different (and in our opinion, an erroneous) interpretation of the same set of facts. This is not the manner in which revisional powers should be invoked. In this view of the matter, we are of the considered opinion that the jurisdiction conferred on the National Commission under Section 21 (b) of the Act has been transgressed. It was not a case where such a view could have been taken by setting aside the concurrent findings of two Fora.”

9. Reiterating this principle, the Hon'ble Supreme Court in *Lourdes Society Snehanjali Girls Hostel and Ors vs H & R Johnson (India) Ltd., and Ors* (2016) 8 SCC 286 dated 02.08.2016 held:

“17. The National Commission has to exercise the jurisdiction vested in it only if the State Commission or the District Forum has either failed to exercise their jurisdiction or exercised when the same was not vested in them or exceeded their jurisdiction by acting illegally or with material irregularity. In the instant case, the National Commission has certainly exceeded its jurisdiction by setting aside the concurrent finding of fact recorded in the order passed by the State Commission which is based upon valid and cogent reasons.”

10. The Hon'ble Supreme Court in its judgment dated 05.04.2019 in the case of *T Ramalingeswara Rao (Dead) Through LRs & Ors Vs. N Madhava Rao and Ors*, Civil Appeal No. 3408 of 2019 dated 05.04.2019 held as under:

“12. When the two Courts below have recorded concurrent findings of fact against the Plaintiffs, which are based on appreciation of facts and evidence, in our view, such findings being concurrent in nature are binding on the High court. It is only when such findings are found to be against any provision of law or against the pleading or evidence or are found to be perverse, a case for interference may call for by the High Court in its second appellate jurisdiction.”

11. The fora below have pronounced orders which are detailed and have dealt with all the contentions of the petitioner which have been raised before us in this revision petition. It is also seen that the orders of these fora are based on evidence on record. In view of the settled proposition of law that where two interpretations of evidence are possible, concurrent findings based on evidence have to be accepted and such findings cannot be substituted in revisional jurisdiction, this petition is liable to fail.

12. We, therefore, find no illegality or infirmity or perversity in the impugned order warranting any interference of this Commission. The present revision petition is, therefore, found to be without merits and is accordingly dismissed.

13. In the circumstances of the case, there shall be no order as to costs. Pending IAs, if any, stand disposed of with this order.

14. RP 401 of 2017 also stands disposed of in the above terms.