IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

&

HON'BLE SHRI JUSTICE ALOK AWASTHI

ON THE 4th OF AUGUST, 2026

MISC. PETITION No. 4227 of 2026

M/S BAJAJ LIFE INSURANCE LIMITED THROUGH ITS AUTHORIZED REPRESENTATIVE MR. A K AKASH

Versus

MRS VARSHA SIRWANI

Appearance:

Ms.Bharti Arora, learned counsel alongwith Shri Yash Jain, learned counsel for the petitioner.

Shri Paresh Joshi, learned counsel for the respondent.

ORDER

Per. Justice Subodh Abhyankar

This Miscellaneous Petition has been filed by the petitioner against the order passed by the National Consumer Dispute Redressal Commission, New Delhi in Revision Petition No.2264/2024, whereby the order passed by the Registrar of State Consumer Dispute Redressal Commission, Bhopal on 30.01.2024 has been affirmed whereby, the appeal preferred by the petitioner has been dismissed for non-compliance of the order dated 10.01.2024 passed by the State Consumer Dispute.

2. In brief, the facts of the case are that a consumer complaint was initially filed by the respondent Varsha Sirwani alleging deficiencies in

service against the petitioner/insurance company on account of the death of her husband. In the aforesaid complaint, after the reply was filed by the Insurance Company, the final order was passed on 06.10.2022 allowing the complaint and directing the petitioner to pay the entire amount of the home loan alongwith requisite interest to the respondent therein/Aavasa Finance Ltd. Additionally, it was also directed to pay cost of Rs.50,000/- towards mental trauma and Rs.10,000/- towards expenses and loss suffered by the respondent. The aforesaid award was challenged by the petitioner before the State Consumer Forum. Admittedly, at the time of filing the appeal, the amount of pre-deposit as prescribed under Section 41, which was 50% of the amount awarded, was not deposited. Hence, the State Commission passed the peremptory order dated 10.01.2024 directing the petitioner to deposit the amount within further two weeks time and subsequently, when the amount was also not paid within the further period of two weeks' time, on 30.01.2024, the aforesaid order was passed by the Registrar dismissing the appeal for non-compliance of the order dated 10.01.2024.

3. According to the petitioner, the amount was finally deposited by them before the DCRF on 01.03.2024. It is submitted that prior to the said dismissal by the Registrar, the appellant had also preferred an application dated 24.01.2024 for extension of time for filing the pre-deposit receipt, contending that although a draft was prepared and was sent to the local advocate at Indore, but the same was lost in transit and thus, in order to prepare a fresh draft, some further time was sought, but the aforesaid application was never placed before the SCDRC and the Registrar dismissed

the appeal on 30.01.2024.

4. Learned counsel for the petitioner has submitted that when the application was already filed by the petitioner for extension of time before the SCDRC, it was incumbent upon the Registrar to place the application before the State Commission. However, instead of putting up the aforesaid application for consideration before the Commission, the Registrar himself has dismissed the appeal on 30.01.2024 in compliance with the order passed by the State Consumer Commission on 10.01.2024. It is also submitted that, otherwise also the appellant has deposited the sum of Rs.18,00,742/- before the DCRF, which is also noted by the National Commission in its order and although, learned counsel for the petitioner has stated that the amount is also short by Rs.1,50,000/- but admittedly a substantial amount has been deposited. Thus, it is submitted that the impugned order deserves to be set aside and the matter deserves to be remanded back to the SCDRC for its fresh consideration on merits.

5. The prayer is vehemently opposed by Shri Paresh Joshi, learned counsel for the respondent and it is submitted that no case for interference is made out as the National Commission has rightly held that the petitioner has not challenged the original order dated 10.01.2024 passed by the SCDRC; in fact, he has challenged the order passed by the Registrar on 30.01.2024, which was passed in compliance order passed by the SCDRC on 10.01.2024. It is also submitted that a false statement was made by the petitioner before the National Commission that the entire amount has been paid. In fact, it falls short Rs.1,50,000/- as only Rs.18,00,742/- were deposited through a banker's

cheque dated 20.11.2025 before the DCDRC, Indore.

6. Learned counsel for the respondent has also submitted that the petitioner took almost 8 adjournments for curing the defects and subsequent applications filed by the petitioner on 24.01.2024 were also made with false averments that the draft was missed in transit, as details of which have not been given even in the present petition.

7. Having considered the rival submissions and on perusal of the record, it is apparent that the original peremptory order was passed by the SCDRC on 10.01.2024, whereas, the final order was passed, by the Registrar on 30.01.2024. The order dated 10.01.2024 reads as under:-

> Ms. Sangeeta Moharir, learned counsel for appellant has sent an application seeking adjournment in the matter.
> Appellant has not yet removed the default as pointed out by the office.
> Two weeks time is granted for the same.
> If the default as pointed out by the office is not removed within two weeks, the appeal shall stand dismissed without reference to the Bench.

Order dated 30.01.2024 passed by its Registrar, reads as under:-

> Ms.Rajni Bhasin, learned counsel for the appellant.
> As per order dated 10.01.2024, receipt of pre-deposit u/s 41 of C.P. Act was to be furnished within two weeks.
> But the same has not been furnished by the appellant till date. Counsel for the appellant has filed an application on 24.01.2024.
> In the circumstances, the appeal stands dismissed for non-compliance of the order dated 10.01.2024, without further reference to the Bench.

8. It is apparent that the petitioner had filed an application for extension of time on 24.01.2024, which is also reflected in the aforesaid order dated 30.01.2024 as also in the memo of revision preferred before the National Consumer Commission. We also find that in the entire impugned order of the National Consumer Commission, there is no reference of the subsequent application being filed by the petitioner for extension of time. So far as the provision of appeal under section 41 of the Act is concerned, it

would be relevant to reproduce the same at this juncture, which reads as under:-

> 41. Appeal against order of District Commission.
> - Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of forty-five days from the date of the order, in such form and manner, as may be prescribed:
> Provided that the State Commission may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period:
> Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed:
> Provided also that no appeal shall lie from any order passed under sub-section (1) of section 81 by the District Commission pursuant to a settlement by mediation under section 80.

9. A careful perusal of the aforesaid section would reveal that the appeal may be entertained by the State Commission after expiry of the period of 45 days. However, it is further provided that when the appeal is preferred by a person who is required to pay any amount in terms of the order passed by the District Commission, it shall not be entertained by the State Commission unless the appellant has deposited 50% of the amount as directed. Thus, it is not a case where 50% of the amount was mandatorily required to be deposited at the time of filing of the appeal and thus, it cannot be said that the application dated 24.01.2024 for extension of time filed by the appellant could not have been entertained by the National Commission had it been placed before it for its consideration. We also find that so far as the award passed by the District Consumer Forum is concerned, it has not specified as to how much amount is required to be paid; the operative part of the same reads as under:-

> विचारणीय प्रश्न क्रं. 2 सहायता एवं व्यय : –

(15) अतः उपरोक्त समस्त विवेचन के आधार पर हम इस निष्कर्ष पर पहुंचते हैं कि परिवादिया के द्वारा विपक्षी क्रं. 1 के विरुद्ध प्रमाणित किया है, इस कारण निम्न अनुसार विपक्षी क्रं. 1 के विरुद्ध परिवादिया के पक्ष में आदेश दिया जाता है : –

1. विपक्षी क्रं., विपक्षी क्रं. 2 के द्वारा जारी सरफेसी एक्ट के तहत होम लोन की समस्त वांछित राशि को ब्याज सहित विपक्षी क्रं. 2 को अदा करें और परिवादिया की संपत्ति को बंधक मुक्त करावे तथा विपक्षी क्रं. 1, परिवादिया के पक्ष में दी गई बीमा पॉलिसी के अंतर्गत बीमा राशि लोन चुकता करने के उपरांत शेष धन परिवादिया को एक माह के भीतर अदा करें, जिस पर 8% वार्षिक की दर से ब्याज व्यय होगा |

2. परिवादिया को मानसिक व शारीरिक त्रास की पूर्ति हेतु विपक्षी क्रं. 1 50,000 ₹ (पचास हज़ार रु. मात्र) की क्षतिपूर्ति राशि प्रदाय करे और इस परिवाद का व्यय 10,000 ₹ (दस हज़ार रु. मात्र) भी अदा करें |

10. In the impugned order of the National Commission, it has also been opined that as per the appellant, the total amount is Rs.16,00,000/-, which was paid through demand draft, drawn in favour of President, DCDRC through Axis Bank, regarding which there is an objection that it falls short by Rs.1,50,000/-. Thus, apparently the amount which has been deposited by the petitioner is substantially far more than 50% of the decreetal amount.

11. In such circumstances, we are of the considered opinion that the impugned order cannot be sustained in the eyes of law, firstly, on the ground that even though there was a peremptory order passed by the SCDRC on 10.01.2024, the application for extension of time was also filed by the petitioner on 24.01.2024, which ought to have been put up for hearing before the SCDRC by its Registrar. However, it appears that the aforesaid application was not kept before the SCDRC for hearing, may be due to some inadvertence on the part of the Registrar and thereafter the application was rejected by the Registrar vide its order dated 30.01.2024, citing the peremptory order dated 10.01.2024. We are of the considered opinion that had the aforesaid application been placed before the SCDRC for its hearing, some order could have been passed on the same, but the petitioner was deprived of his right to be heard on the said application for extension of

time.

12. Secondly, we also find that in the detailed order passed by the National Commission, it did not address the grounds raised by the petitioner in the memo of appeal submitted to the NCDRC. Additionally, we believe that the matter at hand was procedural and should not have been prolonged, especially when the petitioner had already deposited more than 50% of the decretal amount, although it is the contention that it has already deposited the entire amount, which is disputed by the counsel for the respondent, contending that it falls short by Rs.1,50,000/- only.

13. Thus, in sum and substance, a substantial amount has already been deposited by the petitioner before the District Consumer Forum, allowing the appeal to be entertained on merits before the SCDRC.

14. So far as reasoning assigned by the National Commission that the petitioner has not challenged the original order dated 10.01.2024 passed by the SCDRC but the order dated 30.01.2024 which was ministerial in nature passed by the Registrar is concerned, we are of the considered opinion that even if the order dated 30.01.2024 passed by the Registrar was erroneously challenged by the appellant instead of the order passed by the SCDRC dated 10.01.2024, again, it can not be said that to be an incurable mistake which could not have been rectified and instead of dismising the petition only on the ground that the relevant order was not challenged some breathing time could have been granted to the appellant to challenge the said order also which could also have met the ends of justice.

15. In view of the same, we set aside the order passed by the National

Commission dated 12.05.2026 as also the order dated 10.01.2024 passed by the State Commission and the consequential order passed by its Registrar dated 30.01.2024 and remand the matter back to the State Commission for passing the order afresh on merits of the case after affording due opportunity of hearing to both the parties concerned. Thus, the original State Commission order dated 10.01.2024 is restored to its original number with a further direction to the State Commission to decide the appeal as expeditiously as possible, preferably within a period of two months from the date of receipt of the certified copy of the order passed today. The parties are also directed to appear before the State Consumer Redressal Commission, Bhopal on 30.09.2026.

16. It is made clear that this Court has not reflected upon the merits of the case.

(SUBODH ABHYANKAR)
JUDGE

(ALOK AWASTHI)
JUDGE

Sourabh