Sr. No. 12 & 39

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

FAO(D) 20/2026 &
WP(C) 2098/2026 CM(5669/2026)

TABEEN MINERAL WATER PVT. LTD THROUGH ITS MANAGING DIRECTOR …Petitioner(s)/appellant(s)

Through: Mr. Irfan Rasool Wani, Advocate in FAO(D) No. 20/2026
Mr. Z. A. Qureshi, Sr. Advocate with
Ms. Rehana Fayaz, Advocate in WP(C) No. 2098/2026

Vs.

NATIONAL INSURANCE COMPANY LIMITED AND ANOTHER ...Respondent(s)

Through: Mr. N. A. Dendru, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

J U D G M E N T (ORAL)
21-10-2026

1. By this judgment, we propose to dispose of the appeal as well as the writ petition as both the matters involve similar issues.

2. The brief facts of the case are that the compensation being claimed by the appellants/petitioners is above Rs. fifty lakhs and, therefore, the State Commission has disallowed the complaints only on the ground that they are non-maintainable due to lack of pecuniary jurisdiction.

3. The Commission has admittedly not gone into the merits of the case and, therefore, the petitioners/appellants have not touched upon the merits of the case but have addressed the Court on the limited count that the case of "*Met Life India Insurance Company Ltd & Another v. Abdul Aziz Khan*" passed in FAO(D) No. 01/2025 which has been relied upon by the J&K State Consumer Disputes Redressal Commission, Srinagar is actually not

applicable in the present case because, in the judgment of **Met life** supra, the mandate issued by the Court was not to bracket the pecuniary jurisdiction but was on a totally different count.

4. The distinction between the ratio decidendi and the obiter dicta has not been appreciated by the learned Commission. The counsel for the appellants/petitioners submits that once "MetLife India Insurance Company Ltd." is not applicable, then the analogy of the whole case, particularly for deciding the issue of pecuniary jurisdiction, which is the sole ground of dismissal and passing of the impugned orders, has to be seen.

5. The counsel for the petitioners/appellants has thus taken this Court to the initiation of the issue, which started from the Basic Act of 1987. In the Basic Act of 1987, which is the Jammu and Kashmir Consumer Protection Act, 1987, Section 15 provided for a pecuniary limit which was initially Rupees fifty thousand to Rupees ten lakhs.

6. The counsel for the petitioners thereafter has drawn attention of this Court to the amendment which came in 1997, whereby the words "rupees fifty thousand" were substituted by "rupees five lakhs" and the words "rupees ten lakhs" were substituted by "rupees thirty lakhs".

7. The counsel for the petitioners thereafter has drawn attention of this Court to the Gazette notification of 1998, whereby the words "rupees thirty lakhs" have been omitted. The counsel submits that the omission of "rupees thirty lakhs" amounted to removing the upper cap of the pecuniary jurisdiction, resulting in remedies for claims above Rs. fifty lakhs being available before the State Commission.

8. The counsel further submitted that until 2019, when the Consumer Protection Act, 2019, became applicable after the repeal of the 1987 Act, the

disputes which had arisen ought to have been decided by treating the upper limit as unlimited for the purpose of the State Commission because, once the National Commission was not applicable, then a person would be rendered remediless in case the claim exceeded Rs. fifty lakhs. The counsel has also shown the substitution made in 2011, which took the upper limit to Rs. fifty lakhs, without discussing the removal of the upper limit. This is because substitution could have happened only if there was an existing upper limit of Rs. fifty lakhs, whereas the notification of 1998 had removed the upper limit and, thus, the substitution itself was *non-est* at the threshold.

9. The counsel further submitted that, for all those cases which had arisen before the Consumer Protection Act, 2019 came into effect, a person would be rendered remediless if seeking compensation exceeds Rs. fifty lakhs, as there was no remedy either under the 1987 Act or under any of the amendments that had been made.

10. Learned counsel for the appellants/petitioners submits that it is a settled law that a person cannot be rendered remediless for the purpose of enforcing his rights.

11. The counsel for the petitioners/appellants further submit that, in case the issue is not settled, the case will have to be re-initiated from the beginning by filing a fresh petition under the Consumer Protection Act, 2019, putting the old cases on a reversal mode, as they would have reached a stage where the merits could have been examined and a proper order on merits could have been passed.

12. The counsel for the respondent, Mr. N. A. Dendru, fairly submits that the Commission was entertaining all claims above Rs. fifty lakhs but for the observation made in "**Met Life India Insurance Company Limited**"

supra, wherein one of the paragraphs it has been observed that the upper pecuniary limit of Rs. fifty lakhs is operational under Section 15 of the Act of 1987.

13. The counsel for the respondent, thus, fairly submits that the Commission was entertaining all claims of pecuniary jurisdiction above Rs fifty lakhs, as otherwise the claimants would have been rendered remediless. It is further submitted that the remedy of appeal would not suffice because non-examination of the case on merits would render a person remediless at a particular stage. The counsel further submits that the pecuniary jurisdiction will always have the limitation of building upon the parameters which have been raised in the original jurisdiction, and thus directly coming to the appeal cannot be an efficacious remedy.

14. After hearing learned counsel for the parties, this Court finds that the narrow compass of the prayer made today and the supporting submissions are only pertaining to cases which are pre-2019, when the Act of 1987 was applicable and a remedy before the State Commission has been denied only on the ground that the pecuniary jurisdiction exceeded the limit of Rs. fifty lakhs where as the remedy of National Commission was not available.

15. Section 15 of the Jammu and Kashmir Consumer Protection Act, 1987, originally enacted, reads as follows:

> **"*15. Jurisdiction of the State Commission*.**— *Subject to the other provisions of this Act, the State Commission shall have jurisdiction—*
>
> *(a) to entertain—*
>
> *(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees fifty thousand but does not exceed rupees ten lakhs; and*
>
> *(ii) appeals against the orders of Divisional Forum within the State; 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 Divisional Forum within the*

State, where it appears to the State Commission that such Divisional Forum has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity."

16. The amendment made to Section 15 of the Jammu and Kashmir Consumer Protection Act, 1987 in the year 1997 in terms of "The Jammu and Kashmir Consumer Protection (Amendment) Act, 1997 reads as follows:

12. Amendment of Section 15, Act XVI of 1987

In sub-clause (i) of clause (a) of section 15 of the principal Act, for the words "rupees fifty thousand" and "rupees ten lakhs", the words "rupees five lakhs" and rupees thirty lakhs" shall respectively be substituted.

17. The amendment made to Section 15 by virtue of Jammu and Kashmir Consumer Protection (Amendment) Act, 1998, provided that the words "but does not exceed "rupees thirty lakhs" shall be omitted. The amendment made in 1998 reads as follows:

2. Amendment of Section 15 Act XVI of 1987. --- In sub-clause (I) of clause (a) of section 15 of the Jammu and Kashmir Consumer Protection Act, 1987 the words "but does not exceed rupees thirty lakhs" shall be omitted.

18. The amendment made to Section 15 of the Jammu and Kashmir Consumer Protection Act, 1987 in the year 2011 in terms of "The Jammu and Kashmir Consumer Protection (Amendment) Act, 2002 reads as follows:

6. Amendment of Section 15, Act XVI of 1987*. – In sub-clause (a) of section 15 of the principal Act for the words "rupees five lacs" and "rupees thirty lacs" the words "rupees ten lacs" and "rupees fifty lacs" shall respectively be substituted.*

19. These are the phases through which the law has developed with regard to pecuniary jurisdiction for the purpose of seeking compensation.

20. As we closely observe the development of law, we find that initially the 1987 Act required the pecuniary limit from Rupees Fifty thousand to Rupees ten lakhs, which was then raised to Rupees Five lakhs and Rupees thirty lakhs. Thereafter, the upper limit of Rupees thirty lakhs was omitted, and subsequently a fresh limit was created without dealing with the omission of Rupees thirty lakhs, by substituting Rupees thirty lakhs with Rupees Fifty lakhs.

21. The omission in between has not been dealt with, which has led to a legislative anomaly whereby the legislation has substituted Rupees thirty lakhs, whereas the limit of Rupees thirty lakhs was not even in existence, as it stood omitted way back through an amendment made in the year 1998.

22. This Court also finds that the complete dispute pertains only to the period before the Consumer Protection Act, 2019 came into existence. The Act of 2019, while dealing with the original jurisdiction of the District Commission, State Commission and National Commission, has already provided for the pecuniary limits, which are reproduced as under:

(i) Section 34 of the Consumer Protection Act, 2019:

> ***34. Jurisdiction of District Commission.—****(1) Subject to the other provisions of this Act, the District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed one crore rupees:*
> *Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.*

(ii) Section 47 of the Consumer Protection Act, 2019:

> ***47. Jurisdiction of State Commission.—****(1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction—*
>
> *(a) to entertain—*

> *(i) complaints where the value of the goods or services paid as consideration, exceeds rupees one crore, but does not exceed rupees ten crore:*
>
> *Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;*

(iii) Section 58 of the Consumer Protection Act, 2019:

> ***58. Jurisdiction of National Commission.—****(1) 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 paid as consideration exceeds rupees ten crore:*
>
> *Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.*

23. Thus, after 2019 Act, a person aggrieved would never be rendered remediless, as there would always be a forum of National Commission.

24. Thus, this Court is convinced that the pre-2019 cases have to be dealt with in the given perspective where the meaningful remedy is available to all persons seeking compensation above Rupees fifty lakhs and the matters are pending before the State Commission.

25. In "***Dhannalal v. Kalawatibai and Others***" reported as 2002 INSC 289 passed by the Supreme Court and reiterated in case "***Ashok Kumar Jaiswal v. Ashim Kumar Kar***" 2014 SCC Online CAL 3497 passed by the Calcutta High Court and the Rajasthan High Court in "**Anil Agarwal v. Suresh Chand Tiwari**" in S.B Civil Writ Petition No. 6941/2023, has held that *"If a man has a right he must have a means to vindicate and maintain it, and a remedy if he is injured in the exercise and enjoyment of it; and indeed it is vain thing to imagine a right without a remedy for want of right and want of remedy are reciprocal"*.

The reasoning of the afore-mentioned judgments is based on *Doctrinal Moorings of* ***Ubi Jus Ibi Remedium***. The Indian Judiciary has

consistently invoked ***Ubi Jus Ibi Remedium*** to ensure that justice is not denied due to procedural lacunae or the absence of a specific pre-existing remedy. This application spans across various domains of law, from constitutional rights to civil and statutory claims.

26. This Court has also carefully gone through the judgment of **Met Life India Insurance Company Limited** supra, which has dealt with two propositions. The relevant paragraphs of the said judgment are reproduced hereunder:

> ***19.*** *There were two-fold objections raised: (i) a case of mistaken identity or misrepresentation; and (ii) non-disclosure of a pre-existing disease by the insured at the time of entering into the insurance contract. Perusal of record of the Commission would bear testimony that the complainant has examined only himself, whereas the appellants (opposite party) before the Commission had raised the following grounds:*
>
> *a. That the deceased had concealed the fact that he was suffering from a chronic heart ailment.*
>
> *b. That one investigator, Eagle Eye, investigated the matter and reported that he had contacted the concerned Medical Officer at CHC, and it was certified that the deceased was suffering from chronic heart disease.*
>
> ***20.*** *For that reason, the appellants wanted to examine the investigator, Sagar K. V. Roy, later, it sought production of the investigator who had privately verified the genuineness of the claim. The interim orders recorded on file disclose that although the appellants had been granted time repeatedly to produce the witnesses, but they failed to do so.*
>
> ***21.*** *Resultantly, vide order dated 16th May 2019, it was observed by the Commission that despite directions issued to the opposite party (for producing the investigator), the same had not been done, so the right to call the investigator was closed.*
>
> *However, the appellants had also requested to examine the doctor, but that too was not allowed.*
>
> ***22.*** *Our attention has been drawn to the nature of documents sought to be proved by the respondents, which, on the face of it, sow seeds of misrepresentation. The same being a question of fact, was required to be proved by the appellants in order to obtain a finding from the Commission on the issues involved. Merely because the documents were in the nature of photocopies does*

not justify brushing them aside, rather, under summary jurisdiction, the Commission was required to ascertain the genuineness of such documents.

23. *It is common knowledge that insurance companies, in the event of processing of claims, conduct independent surveys and verify the claim by way of investigation. In this regard, the investigator Eagle Eye had found that the insured was suffering from heart complications and was a known case of RHD prior to the purchase of the policy. The investigator had also collected the OPD ticket of CHC Chandoosa dated 11th November 2010 to confirm the same.*

24. *Even the concerned doctor who examined the insured at the relevant time claimed to have disclosed to the insurer that the deceased was under his treatment for one year prior to obtaining the policy. These aspects were required to be evaluated by the Commission by way of evidence, but it has proceeded to allow the claim merely on the strength of sole statement of the respondent.*

27. This Court finds that the judgment **"MetLife India Insurance Company Limited"**, though in its paragraph 11 has mentioned Section 15 of the Act of 1987 but has not drawn any conclusion or any kind of precedent oriented mandate to be followed regarding Section 15 of the Act of 1987 and, thus, the Commission taking recourse to MetLife (supra) is not proper because the said judgment is not actually dealing with the situation. The Obiter Dicta cannot have a binding value in the aforesaid perspective.

28. The Commission has been following this position of no upper limit for a number of years, as mentioned by the learned counsels. The opening of the upper pecuniary limit beyond the 2011 amendment, while taking into consideration the omission of Rs. thirty lakhs by the 1998 notification, was the correct position of law.

29. Moreover, this Court is also concerned that any person cannot be rendered remediless for seeking compensation just because there is a legislative anomaly which is occurring for the pre-2019 cases.

30. The legislature, while making the amendment in 2011 has substituted the upper pecuniary limit of Rupees thirty lakhs with an upper pecuniary limit of Rupees fifty lakhs without realising that the limit of Rupees thirty lakhs was not even in existence, as the upper pecuniary limit was consciously omitted by the subsequent notification of 1998, which has already been reproduced above.

31. Thus, on the one hand, the legislative intention was clear to have an unlimited pecuniary jurisdiction before the State Commission in pre-2019 cases by the amendment made in 1998, on the other hand, the so-called substitution in 2011 created a cap without creating a remedy.

32. Thus, in the given circumstances, this Court, while making a purposive interpretation of the legal position, lays down the law that any case pending prior to the coming into force of the Consumer Protection Act, 2019, shall be dealt with, for the purpose of pecuniary jurisdiction, only in terms of the 1998 Gazette Notification, which omitted the upper pecuniary limit of Rupees thirty lakhs.

33. Thus, for all such pending cases, the upper pecuniary limit shall be unlimited, as the National Commission would not have a jurisdiction in those cases until the new Act of 2019 has come into vogue.

34. Thus, all those cases in which the pecuniary limit is above Rupees Fifty lakhs shall be admissible and shall be required to be adjudicated on merits and any dismissal or non-interference on account of the upper pecuniary limit of Rupees Fifty lakhs is quashed, and such matters shall be required to be re-adjudicated by the Commission strictly in accordance with law and on their own merits.

35. Thus, in light of the aforesaid observations, both the appeal and the writ petition are allowed and on the same terms, the impugned orders are quashed.

36. The matter is remanded to the Jammu and Kashmir State Consumer Disputes Redressal Commission for consideration from the stage at which the proceedings were concluded by the Commission. Both the parties shall be required to appear before the State Commission on 11th November, 2026 and the proceedings shall be taken forward from the stage at which they had been culminated into closure due to the pecuniary jurisdiction, in accordance with law.

37. A copy of this order shall be placed on the file of each case.

(MOHD YOUSUF WANI)
JUDGE

(DR. PUSHPENDRA SINGH BHATI)
CHIEF JUSTICE

SRINAGAR
21-10-2026
Aamir

Whether approved for reporting: ***Yes***

Amir Rashid Sofi
I attest to the accuracy and
authenticity of this
document