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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CM(M) 2366/2024**

UNITED INDIA INSURANCE CO LTD Petitioner

Through: Mr. Amit Kr. Singh, Adv.

versus

LALLY AUTOMOBILES PVT LTD Respondent

Through: Mr. Jainendra Maldahiyar with Mr.
Gyanendra Kumar, Advs.

CORAM:
HON'BLE MS. JUSTICE SHALINDER KAUR

% **ORDER**
22.04.2024

CM APPL. 22768/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed under Article 227 of the Constitution of India read with Section 151 CPC impugning the order dated 07.02.2024 passed by learned National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as 'NCDRC') in Revision Petition No. 328/2023 titled as "*United India Insurance Co. Ltd. vs. Lally Automobiles Pvt. Ltd.*" whereby the application moved on behalf of the petitioner seeking condonation of delay along with the revision petition has been dismissed.
4. Learned counsel for the petitioner submits that on 03.08.2023, it was



brought to the notice of the learned NCDRC that in view of the exclusionary clause II, where the burglar insurance policy clearly excludes any such claim which may have occurred on account of theft by the members of the staff of the insured company or otherwise, then the petitioner is not liable to pay the insurance claim. Further, it is submitted that three staff members of the respondent have been named in the chargesheet, therefore, the case clearly falls within the exclusionary clause II of the contract between the parties which is mentioned in the insurance policy itself. It is also submitted that the chargesheet as indicated above was never produced before the State Consumer Disputes Redressal Commission, New Delhi.

5. Learned counsel further submits that this fact was brought to the notice of the learned NCDRC and vide order dated 03.08.2023, the learned NCDRC had posted the matter for hearing on 04.12.2023 to consider the application seeking condonation of delay in the light of the submissions made before it and accordingly, notice was issued to the respondent.

6. It is also submitted that in the impugned order, the learned NCDRC has failed to consider the exclusionary clause II in the insurance policy and without considering the same has dismissed the application seeking condonation of delay. Resultantly, the revision petition was also dismissed by the learned NCDRC.

7. Issue notice.

8. Learned counsel for the respondent puts an appearance on advance notice and accepts notice and submits that the reply is to be filed.

9. Let reply be filed within four weeks with an advance copy to the other side.

10. Rejoinder thereto, if any, be filed within two weeks thereafter.



11. List for hearing on 29.07.2024.

SHALINDER KAUR, J

APRIL 22, 2024

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