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SLP(C)No. 18259 OF 2003

ITEM No.33

Court No.10

SECTION XVII  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.18259/2003

(From the judgement and order dated 07/02/2003 in RP 2778/2002  
of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

NATIONAL INSURANCE CO. LTD. & ANR.

Petitioner (s)

VERSUS

DILBAGH RAI SHARMA

Respondent (s)

(With prayer for interim relief)

Date : 20/02/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr. P.N. Puri,Adv.

For Respondent (s)Mr. Ashwani Kumar, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed. No costs.

[ Alka Dudeja ] [ Janki Bhatia ]  
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1201 OF 2004  
(Arising out of S.L.P. [C] No. 18259 of 2003)

National Insurance Company Ltd. & Anr....Appellant (s)

Versus

Dilbagh Rai Sharma...Respondent(s)

O R D E R

Leave granted.

The respondent-claimant filed a complaint before the District Consumer Disputes Redressal Forum, Union Territory, Chandigarh, (hereinafter referred to as 'the District Forum') under the Consumer Protection Act, 1986. The District Forum allowed the complaint and directed the appellants to pay Rs.1,97,812/- with interest at the rate of 10% per annum. The appellants moved an application before the District Forum for recalling its order dated 3rd December, 2001, which was dismissed on 22nd August, 2002.

The appellant thereafter filed an appeal before the Consumer Disputes Redressal Commission, Union Territory, Chandigarh (hereinafter referred to as 'the State Commission') along with an application to condone the delay of 102 days. The State Commission declined to condone the delay and dismissed the appeal as not maintainable being barred by time. Aggrieved by the order of the State Commission, the appellants filed a revision before the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as 'the National Commission'), which was dismissed holding that the order passed by the State Commission did not require any interference.

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Aggrieved by the orders of the State Commission and the National Commission, the appellants have filed the present appeal.

This Court had issued a limited notice to the respondents on the question as to why the order under challenge be not set aside and the case be remitted back to the Consumer Disputes Redressal Commission, Union Territory, Chandigarh, for decision on merits after condoning the delay.

Learned counsel for the parties have been heard. In our view, the appellants had made out a case for condonation of delay and the State Commission erred in declining to condone the delay and hear the appeal on merits. Consequently, the application filed by the appellants, for condoning the delay before the State Commission, is allowed. The orders of the State Commission and the National Commission are set aside. The case is remitted back to the Consumer Disputes Redressal Commission, Union Territory, Chandigarh, for disposal of the appeal on merits. The appeal is, accordingly, allowed. No costs.

.....J.  
(Ashok Bhan)

.....J.  
(H.K. SEMA)  
New Delhi,  
February 20, 2004.