

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4226 OF 2014
(Arising out of SLP (Civil) No.25743 of 2013)

SANJAY PANCHAL

...APPELLANT(S)

VERSUS

INDUBHAI PAREKH MEMORIAL HOSPITAL & ANR.

...RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties and perused the impugned order passed by the National Consumer Disputes Redressal Commission, New Delhi, (for short, 'the National Commission') by which it had refused to condone the delay of 59 days in filing the revision petition.

It appears that the appellant had filed the complaint before the District Consumer Disputes Redressal Commission, Ujjain, Madhya Pradesh, (for short, 'the District Forum') which allowed the said complaint of medical negligence at the instance of the respondents which was the hospital (Indubhai Parekh Memorial Hospital) and respondent No.2(Dr. Sunil Chaudhary). The respondents filed an appeal before the State Consumer Disputes Redressal Commission, Bhopal, Madhya Pradesh, (for short, 'the State Forum') which was pleased to set aside the order passed by the District Forum against which the complainant-appellant filed the revision. However, the revision was dismissed by the National Commission on the ground of delay of 59 days.

Considering the fact that the appellant had succeeded before the District Forum and his complaint was allowed after which the State Commission had interfered with the same and reversed the order passed by the District Forum, we are of the view, that the appellant should have been heard on merit.

However, the appellant, unfortunately, did not file the revision before the National Commission within the prescribed time due to financial constraints and delayed the filing of revision by 59 days. Counsel for the respondents, however, submitted that the National Commission has been strictly following the guidelines for entertaining the revision and in view of the delay of 59 days in filing the revision petitions, the National Commission refused to condone the delay. In addition, the National Commission also prima facie noticed that the appellant had no case on merit and that was also one of the additional reason to dismiss the revision petition. However, from the impugned order, it is clear that the revision was not considered on merit but was dismissed solely on the ground of delay.

While, we appreciate the concern of the National Commission to discourage the delay in filing the revision petitions by refusing to condone the delay, it is surely expected to consider a just cause as also the fact whether the petition in the event of delay not being condoned, would amount to denial of justice and fair play. In this particular matter, the appellant had succeeded before the District Forum, which order was reversed by the State Forum wherein it could also be noticed that the appellant was hard pressed due to financial constraint. Although, condoning or refusing to condone the delay is essentially a matter of discretion of any Court, the well acknowledged principle to consider 'sufficient cause' while considering condonation

Leave granted.

The appeal is allowed in terms of the signed order.

|(Neetu Khajuria)

|(S.S.R. Krishna)

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|Sr.P.A.

|Court Master

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Signed order is placed on the file.