



**SCHOOL OF LAW**

**SNIPPETS ON JUDGMENTS OF INDIAN COURTS ON  
CONSUMER RELATED MATTERS**

**BY**

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**SUBMITTED TO**

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## **INTRODUCTION**

I am 2<sup>nd</sup> year law student at the Narsee Monjee Institute of Management Studies, Indore This is an assignment done under the guidance of Adv. Srishty Jaura madam and *Prof. Bejon Mishra sir*. I am proud that I have been interning under the Consumer Online Foundation in December 2020. This internship has helped think in thinking out of the box. This assignment helped in getting the grasp of how the cases can be resolved and how the authorities without being biased, follow the principle of natural justice. The whole internship though have been very interesting, some assignment like this one has been one of my favorite. This assignment has been so far a great learning experience, to be precise physical learning experience that how the cases are resolved and what should be the ratio decidendi while resolving disputes.

### **Executive summary**

This assignment relates to different cases involving different aspects of consumer protection and redressal. The first case **CICILY KALLARACKAL V/S VEHICLE FACTORY (2012) 8 SCC 524** relates to the channel of appeal as well as delay in appeal against the order of national commission paving the way for the dismissal of appeal. High Court does not have authority to exercise writ jurisdiction against the orders of the national commission, only Supreme Court have such powers. The second case **RAJEEV HITENDRA PATHAK & ORS VS ACHYUT KASHINATH KAREKAR & ANR (2011) 9 SCC 541** related to reviewing EX-parte decision, after a series of cases the 2002 amendment says only National Commission has such powers and not the state or district commission. The third case **OM PRAKASH VS RELIANCE GENERAL INSURANCE (2017) 9 SCC 724** is very unique as well as important as it defines that delay in reporting about

the damage to the insurance company because of unavoidable circumstances, the Apex Court was of the view that searching for vehicle after the loss is a good option than filing for claims.

## **APPEALING: THE CHANNEL AND DELAY**

### 1. CICILY KALLARACKAL V/S VEHICLE FACTORY (2012) 8 SCC 524

*Indecisions and delays are the parents of failure.* This quote perfectly defines this case, how delay in appealing before the Honorable Supreme Court against the orders of the National Commission paved the way for the dismissal of appeal. Also, a proper channel for appealing against the orders of the National commission and seeking alternate remedies is revised through this case.

The Apex Court revised the window of appealing against the orders of the National Commission and said that High Courts do not have the jurisdiction to entertain writ petition against the judgment and order passed by the National Commission. The said order can only be challenged before the Supreme Court according to the provisions of the Consumer Protection act 2019. The appeal got dismissed because of an inordinate unexplained delay of more than 1000 days in filing the petition against the order of the Commission in Supreme Court, Just because of getting hospitalized for some days does not mean a person can take the Honorable court for granted. The reason for not approaching was not found adequate and the Court was not satisfied by the reason.

The decision of Apex Court was on the aggressive side in both, dismissing the appeal and revising the window for the appeal. This case can be considered as one of the improper exercise of jurisdiction by a High Court. If

legislature has provided a statutory appeal, High Court cannot bypass it. Thus, the High Courts were directed about the same and the appeal got dismissed. A well-established judgment with proper Ratio Decidendi can be seen in this case.

## **POWER TO REVIEW EXPARTE ORDERS AND 2002 AMENDMENT**

2. RAJEEV HITENDRA PATHAK AND ORS. VS. ACHYUT KASHINATH KAREKAR AND ANR. (2011) 9 SCC 541

*Exercising of legal power solely depends on the expression of legal powers.* Until and unless the power is specified in any regulation or in any rule or anywhere in black and white, you cannot exercise it. The Apex Court in this case specifies the powers of the different Consumer Redressal commissions in matters of reviewing and recalling their ex-parte orders. Powers which have not been expressly given by the statute cannot be exercised.

The stand of Supreme Court in the matters of recalling or reviewing of ex-parte decisions by the different Consumer Redressal Commissions has been heterogeneous over the years. Before 2002, the position on the power of the Commission to review its ex parte order was unsettled as in 1999<sup>1</sup> the Supreme Court said that the State Commission has no jurisdiction in this regard while in 2000<sup>2</sup>, the Supreme Court overruled the previous judgment and laid down that the commission does in fact have the power to review its ex parte order. After the 2002 amendment, with the introduction of section 22-A it was laid down that district forums and state commission do not have the power to set aside or recall ITS ex parte orders. Only the National Commission shall have such powers.

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<sup>1</sup> (1999) 4 SCC 325

<sup>2</sup> (2000) 3 SCC 242

The said amendment was formulated for the convenience of the consumers at large, so if a person wanted to challenge the ex-parte decision of a State or District Commission, one has to appeal in higher commission, but only the decision of National Commission can be challenged in the Commission itself. Henceforth, ex-parte order cannot be recalled by the state or the district commission but only by the national commission.

### **PERFORMANCE OF DUTY**

#### **3. OM PRAKASH VS RELIANCE GENERAL INSURANCE (2017) 9 SCC 724**

Through this case the Supreme Court said that the rejection of claim for insurance has to be on valid grounds, rejection for the claim because of Delay in informing the insurance company cannot be considered as a valid ground. This case revolves around the condition of insurance policy for owner to inform insurer immediately after the theft of the vehicle.

The contention of the insurance company was that the appellant has failed to inform immediately which is an important condition for getting claims and is specified in the policy. The owner of the truck contended that he visited the respondent's office after the theft but found it closed. Thereafter, he went to the police official and searched the vehicle for one week and filed a claim which was rejected by the company. He then went faced rejection by the State and the National Commission. The last resort, the Supreme Court found the delay justified, as searching the stolen vehicle would be a better option than getting claims immediately and said that the company should not bar settlement of genuine claims when delay in intimation is due to unavoidable circumstances. Court directed the insurance co. to pay claim amount with interest along with compensation to the insured.

The view of Supreme Court that 'searching for stolen vehicle was a good initiative on the part of appellant' is of a great importance. Earlier the state and the national commission have dismissed this appeal but the Supreme Court found the reason to be satisfactory and has decided accordingly. A very positive stand of Apex Court, will surely give hope and motivation for other people to file the cases and think out of the box!

### **CONCLUSION**

These cases are the signs that the consumers are protected as well as indemnified. Such case laws are marks that courts are there for the protection of consumers. The following three cases are the replica of the fact that there is a long channel of appeal as well. So, if a person has not been satisfied by the commissions they will appeal in courts as well. All the three different categories have been important in past as well as present. We can conclude that consumers are, have been and will be protected!