

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

**RESERVED ON: 12.12.2025
PRONOUNCED ON: 01.01.2026**

REVISION PETITION NO.516 OF 2018

(Against the Order dated 30.11.2017 in Appeal No.A/948/2015
of the State Commission, West Bengal)

Chola Mandalam MS General Insurance Co. Ltd.
Plot No., First Floor, Near Metro Pillar No.81,
Main, 6, Pusa Road, Karol Bagh,
New Delhi-110005.

... Petitioner

Versus

1. Ashoke Debnath
Proprietor of M/s. Mahadev Rice Mill,
S/o Rajani Debnath, Vill-Sherpur, P.O. Rampur, Bhatpara,
P.S. Gopalnagar, Bangaon,
Dist-North 24 Pgs Pin-743262.

2. Central Bank of India,
Branch Office, Vill. & P.O. Nahata,
P.S. Gopalnagar,
Bangaon, Dist. North 24 Pgs, Pin-743290.

... Respondents

BEFORE:

**HON'BLE AVM JONNALAGADDA RAJENDRA AVSM, VSM (Retd.),
PRESIDING MEMBER**

HONBLE MR. JUSTICE ANOOP KUMAR MENDIRATTA, MEMBER

For Petitioner : Mr. Abhishek Kumar Gola, Advocate (VC)

For Respondents: Nemo (Ex-parte vide order dt.12.12.2025)

JUDGMENT

AVM JONNALAGADDA RAJENDRA, AVSM, VSM

1. This Revision Petition is filed under Section 21(b) of the Consumer Protection Act, 1986 ("the Act") assailing the West Bengal State Consumer Disputes Redressal Commission, Kolkata (the State Commission) Order dated 30.11.2017 in First Appeal No. A/948/2015 partly allowing the Appeal preferred by the Opposite Party and modified the District Consumer Disputes Redressal Forum, North 24 Parganas, Barasat, West Bengal ("District Forum"), Order dated 28.05.2015 in CC No. 634/2014, to the extent of setting aside the direction for payment of punitive damages, while affirming the remaining findings and directions.

2. For convenience, the parties are referred to as placed in the original Complaint filed before the District Forum.

3. Brief facts of the case, as per the complainant, are that the complainant is a businessman running a rice mill under the name and style of Mahadev Rice Mill. He availed a cash credit loan from Opposite Party (OP) - 3 for the purpose of expanding his business. As a pre-condition for sanction of the said loan, the complainant was required to insure the mill building, and accordingly obtained a Standard Fire and Special Perils Insurance Policy from OP-1 and 2 for the period from 29.12.2013 to 28.12.2014 for a sum insured of ₹9,00,000/-. He paid a premium of ₹3,034/- towards the policy. The insurance policy expressly excluded kutchha constructions, which were defined therein. After spot verification and satisfaction regarding the nature of construction, the policy was issued. On 21.06.2014, at about 3:30-4:00 AM, a major fire broke out in the rice mill premises, causing extensive damage to the building and destruction of a large stock of paddy. The incident was immediately reported to the Fire and Emergency Services, as well as to Gopalnagar Police Station vide GD Entry No. 956 dated 21.06.2014. The complainant immediately notified OP-3, who in turn informed OP-1 and 2, and thereafter the complainant submitted his insurance claim. Despite repeated representations, including the one dated 14.08.2014 forwarded by OP-3, the claim was repudiated by OP-1 and 2 vide letter dated 10.10.2014 on the basis of a surveyor's report alleging that the structure was kutchha, which was disputed by the complainant and contradicted by the report of the West Bengal Fire & Emergency Services dated 14.08.2014. Being aggrieved, the complainant filed a consumer complaint against the OPs seeking to pay a sum of Rs.9 Lakh along with interest, penalty/loss to the tune of Rs.5,00,000/- for mental trauma and harassment etc.

4. OP-1 and 2 contested the complaint on the grounds of maintainability and limitation under Section 24A of the Consumer Protection Act, contending that upon receipt of intimation they had appointed an IRDA licensed surveyor, who opined that the godown where the fire occurred was of kutcha construction, which is excluded under the policy. On this basis, they justified the repudiation of the claim, alleging breach of policy terms by the complainant. OP-3, the financing bank, admitted the occurrence of fire and receipt of intimation and police report, but denied any deficiency of service on its part, asserting that no relief was maintainable against it as the bank had merely acted as a financier and facilitator and that the remaining allegations were matters of record not attributable to it.

5. The learned District Forum vide Order dated 30.11.2017, allowed the complaint with the following order:

“As OP No-1 and 2 they appointed surveyor to assess the loss it may be inferred that they have waived the point of delay in intimating the incident of fire to the insurance Company: Regarding Kachha Construction and Pucca Construction, the report of fire brigade and surveyor is contradictory. When the policy was given by the OP No-1 and 2 to the complainant on the basis of the disputed construction, OP No-1 and 2 should settle the claim on the basis of the policy and the report of the Surveyor. Considering all the materials on record before us, we do not find any deficiency on the part of OP No-1 and 2 and we do not find any reason to award any compensation against them. Complainant is only entitled to get Rs 8827,149.84 as per the loss assess by the Surveyor.

Hence

Ordered,

that the complaint be and the same is allowed on contest in part against the OP No-1 and 2 and dismissed against OP No-3.

OP No-1 and 2 is directed to pay Rs 827,149.84 to the complainant with interest 9% per annum from the date of filing

of the complaint till final payment within two months from the date of this order.

OP No-1 and 2 is also directed to pay Rs 5,000/- as litigation cost to the complainant within two months from the date of this order, failing which OP No-1 and 2 shall have to pay sum of Rs 100/- per day from the date of this order till its realization, as punitive damages, which shall be deposited by the OP No-1 and 2 in this State Consumer Welfare Fund.

Let copies of the order be supplied to the parties free of cost when applied for."

6. Being aggrieved by the District Forum Order, the OP filed Appeal No.A/948/2015 and the State Commission vide Order dated 30.11.2017 partly allowed the Appeal and modified the Order dated 28.05.2015 passed by the District Forum, in Consumer Complaint No. 634/2014, to the limited extent of setting aside the direction for payment of punitive damages, while affirming the remaining findings and directions of the District Forum, with the following observations:

"DECISION WITH REASON

We have heard the Ld. Advocates of the Appellants and the Respondent No. 1 in the matter. We have also perused the documents on record, including the citations referred to by the Appellants.

The Appellants have primarily picked hole with the subject claim of the Respondent on the grounds that (1) there was a delay of more than 37 days in giving intimation to the appellant about the incident of fire; (2) absence of conclusive evidence to show that the incident of fire broke out due to short circuit; and (3) the building was a "Kutchha construction'.

The incident of fire reportedly took place on 21-06-2014 at about 3.30/4.00 a.m. and the Complainant lodged insurance claim with the OP Nos. 1&2 vide letter dated 28-07-2014. However, at the same time, it is also a fact financier on 21-06-2014 and 23-06-2014, respectively. It is also significant that the Respondent reported the matter to local Police Station and OP NO. 3 note that the Divisional Fire Officer, North 24 Parganas, 'D' Division, West Bengal Fire&Emergency Services submitted its report to the Presidency Magistrate, North 24 Parganas, Barasat, North 24 Parganas on 14-08-2014 to inform the origin and cause of fire. The said Officer also sent a letter dated 23-06-2014 to the Respondent with a demand of charges for

attending fire at the Rice Mill of the Respondent. That apart, the Surveyor also reported the incident of fire as genuine.

Taking into consideration all these facts, we have no hesitation holding that an incident of fire indeed took place at the Rice Mill of the Respondent and the Surveyor did not make any adverse comment in his report stating that such delayed intimation posed any hindrance for him to carry out due inspection at the affected site.

It appears from the Fire Brigade report dated 14-08-2014 that they could not ascertain the cause of fire. However, it appears from the report of the Surveyor that, in unequivocal term he stated that the fire incident took place due to short-circuit. Relevant portion of the observation of the Surveyor is appended below.

"Probable Cause of Damage

The cause of damage is clearly established as out of fire. Copy of Fire Brigade Report enclosed an Annexure-15 for perusal, which states the cause of FIRE could not be ascertained.

However, as per our observation, the cause of fire could be electrical fire inside the said godown out of short circuit from electrical switchboard.

This particular cause of Damage is well covered under the Policy issued to the Insured and thus the claim stands as admissible as per cause of damage, subject to the other terms and conditions of policy of insurance".

Now, let us decide whether the instant claim of the Respondent was justifiably repudiated on account of the fact that the building fell under the category of 'Kutchha construction'

On one hand, it is reported in the survey report that the paddy stock godown was made of tin shed roof and side walls with bamboo made sheets (chatai). On the other, it is stated in the Fire Brigade Report that 'wall plaster of the pucca room measuring about 30' x 15' partially damaged'.

Whatever be the case, given the fact that the fire broke out due to electrical short-circuit, to our mind, it was totally immaterial in this case whether it was a pucca construction or a kutchha one, the policy stipulation notwithstanding. It is always desirable that as long as a claim is otherwise admissible, the same should not be repudiated straightway citing technacilities. In this regard, we are inclined to quote the relevant portion from circular issued by the IRDA in this

regard (Circular No. IRDA/HLTH/MISC/CIR/216/09/2011 dated 20-09-2011).

"The insurers' decision to reject a claim shall be based on sound logic and valid grounds. It may be noted that such limitation clause does not work in isolation and is not absolute. One needs to see the merits and good spirit of the clause, without compromising on bad claims. Rejection of claims on purely technical grounds in a mechanical fashion will result in policyholders losing confidence in the insurance industry, giving rise to excessive litigation".

Although the said circular was issued in the context of delayed intimation/document submission, there is no reason as to why the spirit of this circular should not be stretched/extended to other factors as well, like the present one, where the Appellants repudiated a bona fide claim citing the exclusion clause.

We, thus find no jurisdictional error with the impugned order. However, in the facts and circumstances of the case, we deem it fit and proper to absolve the Appellants of due liability of paying punitive damage for non-compliance of the impugned order within the stipulated period.

Appeal, thus, succeeds in part.

Hence,

ORDERED

that the Appeal stands allowed on contest in part. The impugned order is modified to the extent that the Appellants need not pay the punitive damage being ordered by the Ld. District Forum. Save and except this, the impugned order shall remain unaltered."

7. Dissatisfied by the Order of the State Commission, OP filed the present Revision Petition No.516 of 2018 seeking:

"(a) set aside the impugned judgment and order dated 30.11.2017 passed by the State Commission, West Bengal, in First Appeal No.A/948/2015.

(b) Set aside the impugned judgment and order dated 28.05.2015 passed by the Hon'ble District Forum, North Barasat, in Complaint No.634/2014.

(c) Allow the present Revision Petition and award the cost of the petition to the petitioner.

(d) pass any other or further order(s) as this Commission deems fit and proper in the facts and circumstances of the present case."

8. The learned Counsel for OP reiterated the issues raised in the written version and the grounds advanced in this Revision Petition, and contended that the impugned orders passed by the fora below suffer from patent illegality, material irregularity, and perversity inasmuch as they have completely ignored the binding terms and conditions of the insurance policy, including the specific warranty excluding coverage for kutchra construction, the mandatory obligation of immediate intimation of loss, and the settled principles governing contracts of insurance founded on uberrima fides. The State Commission erred in law in treating the breach of warranty as a mere technicality, disregarding the categorical findings of the duly appointed surveyor, supported by photographic evidence, which clearly established that the insured premises were of kutchra construction, thereby attracting the exclusion under the policy. Further, the inordinate and unexplained delay of over 37 days in intimating the fire incident constituted a clear and willful violation of the policy conditions, vitiating the claim. The reliance placed on extraneous material, such as the Fire Officer's report issued for a limited statutory purpose, and the misapplication of regulatory circulars are irrelevant to the core issue of construction type, amounts to an impermissible rewriting of the contract between the parties. Overlooking the binding nature of policy terms framed under the tariff regime and in subjecting the surveyor's report to unwarranted forensic scrutiny contrary to settled law, the Fora below exceeded their jurisdiction, thereby rendering the impugned findings unsustainable and warranting interference by this Commission. He sought to set aside both the orders of fora below. He relied upon *M/s. Chockhi Dhani Resorts Pvt. Ltd. vs. ICICI Lombard General Insurance Co. Ltd., F.A. No.1259 of 2014 dated 27.07.2012 by NCDRC; Khatema Fibres Ltd. vs. New India Assurance Company Ltd; and Ors., Civil Appeal No.9050 of 2018, decided on 28.09.2021 by Hon'ble Supreme Court* in support of his arguments.

9. On the other hand, the Respondents failed to appear on several occasions, namely on 29.01.2024, 02.05.2024, 30.07.2024, 17.07.2025, and 01.12.2025. Consequently, they were proceeded against **ex parte** vide order dated 12.12.2025.

10. We have examined the pleadings and associated documents placed on record and rendered thoughtful consideration to the arguments advanced by learned counsels for Petitioner.

11. In the present case, both the District Forum and State Commission have concurrently found that the occurrence of fire is undisputed and stands corroborated by police records, fire brigade reports, and the surveyor's assessment. The surveyor himself treated the claim as admissible on the cause of loss. There are concurrent orders in the matter and the findings returned by the fora below are based on cogent material, proper appreciation of evidence, and settled principles of consumer law. There is specific official record by the Fire Department as regards the nature of the affected building, which brings the claim within the scope of the policy. Further, 37 days delay in reporting is of limited consequence. Therefore, clearly, there is no perversity, illegality, material irregularity or jurisdictional error that has been demonstrated by Petitioners so as to justify interference in the revisional jurisdiction.

12. The scope of revisional jurisdiction is well defined. We also place reliance upon the ratio in '**Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd., (2011) 11 SCC 269**'. Hon'ble Supreme Court in '**Sunil Kumar Maity vs SBI & Anr Civil Appeal No. 432 OF 2022 Order dated 21.01.2022**' observed:-

"9. It is needless to say that the revisional jurisdiction of the National Commission under Section 21(b) of the said Act is extremely limited. It should be exercised only in case as contemplated within the parameters specified in the said provision,

namely when it appears to the National Commission that the State Commission had exercised a jurisdiction not vested in it by law, or had failed to exercise jurisdiction so vested, or had acted in the exercise of its jurisdiction illegally or with material irregularity. In the instant case, the National Commission itself had exceeded its revisional jurisdiction by calling for the report from the respondent-bank and solely relying upon such report, had come to the conclusion that the two fora below had erred in not undertaking the requisite in-depth appraisal of the case that was required.”

13. Similarly, Hon'ble Supreme Court in **Rajiv Shukla Vs. Gold Rush Sales and Services Ltd. (2022) 9 SCC 31** has held that:-

As per Section 21(b) of the Act the National Commission shall have jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Thus, the powers of the National Commission are very limited. Only in a case where it is found that the State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise the jurisdiction so vested illegally or with material irregularity, the National Commission would be justified in exercising the revisional jurisdiction. In exercising of revisional jurisdiction the National Commission has no jurisdiction to interfere with the concurrent findings recorded by the District Forum and the State Commission which are on appreciation of evidence on record.

14. After due consideration of the entire facts and circumstances of the case, including the arguments advanced by the learned counsels for both the parties, we find no material irregularity or jurisdictional error in the detailed and well reasoned orders of the learned District Forum in CC No. 634 of 2014 dated 28.05.2015 and the State Commission in First Appeal No.A/948/2015 dated 30.11.2017, warranting interference. The present Revision Petition No.516 of 2018 is, therefore dismissed.

15. In the facts and circumstances of the case, there shall be no order as to costs.

16. All pending applications, if any, stand disposed of accordingly.

.....
**(AVM J. RAJENDRA, AVSM, VSM (RETD.)
PRESIDING MEMBER**

.....
**(ANOOP KUMAR MENDIRATTA, J)
MEMBER**

/bs