**ADDITIONAL BENCH**

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, PUNJAB, DAKSIN MARG, SECTOR 37-A, CHANDIGARH.**

**First Appeal No.726 of 2023**

**Date of institution : 14.11.2023**
**Reserved on : 18.09.2023**
**Date of decision : 06.10.2026**

Cholamandalam MS General Insurance Company, 1st Floor, K.L. Plaza, Rani Jhansi Road, Civil Lines, Ludhiana, through its Authorized Signatory Mr. Sunil Gupta-Deputy Manager, Legal.

Now at Cholamandalam MS General Insurance Company Ltd., SCO 2463-2464, 2nd Floor, Sector 22-C, Chandigarh. PIN 16002.

…..Appellant/Opposite Party No.1

**Versus**

1. M/s Nav Bharat Traders, 4811, B-23, Bobby Palace, Dharampura, Ludhiana through its Proprietor Ms. Pavneet Kaur.
2. Pavneet Kaur, Proprietor of M/s Nav Bharat Traders, 4811, B-23, Boddy Palace, Dharampura, Ludhiana.

…..Respondents No.1&2/complainants

3. Central Bank of India, Nizam Road, Ludhiana, through its Manager.

….Respondent No.3/Opposite party No.2

**First Appeal under Section 41 of the Consumer Protection Act, 2019 against the order dated 13.09.2023 passed the District Consumer Disputes Redressal Commission, Ludhiana in CC/582/2019**

**Quorum:-**

**Mr. H.P.S. Mahal, Presiding Judicial Member**
**Mrs. Kiran Sibal, Member**

**Argued by:-**

For the appellant : Sh. Vishal Sharma, Adv. proxy for Sh. Punit Jain, Advocate
For respondents No.1&2 : Sh. Gaurav Goyal, Advocate
For respondent No.3 : Sh. Aman Sharma, Advocate

**KIRAN SIBAL, MEMBER**

The instant appeal has been filed by the appellant/opposite party No.1 against the impugned order dated 13.09.2023 passed by District Consumer Disputes Redressal Commission, Ludhiana (in short, "the District Commission"), whereby the complaint filed by complainant against opposite parties (in short 'OPs'), under Sections 12 of the Consumer Protection Act 1986, was partly allowed, while granting the following relief:

> "*9. As a result of above discussion, the complaint is partly allowed with direction to opposite party No.1 to settle and reimburse the claim of the complainant in view of the terms and conditions as stipulated in original policy Ex.R-1 within period of 30 days from the date of receipt of copy of the order, failing which the complainant shall be held entitled to interest @8% per annum on the settled amount from the date of order till its actual payment. Opposite party No.1 shall further pay a composite cost of Rs.10,000/-(Rupees Ten Thousand only) to the complainant. Payment of costs shall be made within a period of 30 days from the date of the receipt of the copy of this order. However, the complaint against opposite party No.2 is hereby dismissed.*"

2. It would be apposite to mention that hereinafter the parties will be referred, as have been arrayed before the District Commission.

3. Brief facts of the case for disposal of the appeal are that the complainants firm maintained MTL account with OP No.2-bank and as per the policy of bank, it got insured the machinery of the firm with OP No.1-Insurance company vide policy No.213001176250/000/00. The amount of insurance premium was deducted from the bank account of the complainants firm on 19.11.2018. However, on 08.08.2019 OP No.1 refunded/credited the insurance premium in the account of the complainant firm on their own without informing the complainants firm.

The complainants had no knowledge about the said fact nor the same was ever conveyed to it by the insurance company. Even OP No.2 bank did not give any information or intimation regarding cancellation/ revocation of insurance policy or about refund of premium of the policy to the complainants. The complainants further stated that on 11.11.2019 in the evening fire broke out in the premises of the complainant firm due to short circuit. As a result of which, the stocks, raw materials, finished goods, machines, packing machines, furniture, electric appliances including fans etc and other article lying in the premises were damaged completely. The fire was controlled by the Fire Brigade, however, the complainants firm caused loss to its machinery worth Rs.9,00,000/- in the said fire incident. A DDR No.22 dated 15.11.2019 was lodged at P.S. Division No.3, Ludhiana. The complainant's firm also lodged claim with OP No.1 regarding the alleged loss suffered by it, but the insurance company did not respond on the ground that the amount of premium was already returned to the complainant. The complainants approached the officials of the OPs and requested to settle the claim but all in vain. Alleging deficiency in service on the part of the OPs, the complainant filed complaint before the District Commission and sought directions against the OPs to pay the claim amount Rs.9,00,000/- along with compensation to the tune of Rs.2,00,000/-; besides Rs.21,000/- as cost of litigation.

4. Upon notice OPs appeared through counsel and filed their written reply separately. OP No.1 in its written reply has raised certain preliminary objections, which are not required to be reproduced here for

the sake of brevity. On merits, OP No.1 stated that the insurance policy in question was taken by OP No.2 for the complainant's firm from it and on 19.11.2018, an amount of Rs.2,603/- was deducted from the bank account of complainants, maintained with OP No.2 for renewal of the policy. However, no policy was issued for the said period as a request for refund of the premium was received from OP No.2-Bank, vide letter dated 03.08.2019. Accordingly, the premium received was refunded and policy was not renewed/issued after expiry of previous policy on 30.11.2018. Thus, neither the loss caused to the complainant's firm in the said fire incident was covered under the policy in question nor any policy was issued for covering the date of alleged loss. There was no liability of the insurance company as on the date of alleged loss complainant's firm was not covered under the policy. After denying the other averments made in the complaint, OP No.1 prayed for dismissal of the complaint qua it.

5. In reply to complaint, OP No.2 also raised certain preliminary objections, which are not required to be reproduced here for the sake of brevity. On merits, OP No.2 stated that insurance policy in question was obtained from OP No.1 at the instance/consent of complainant's firm. It was in the specific knowledge of the complainants regarding the payment became due and deducted for the said insurance policy. The complainant was also using net banking therefore each and every transaction was well within its knowledge. OP No.2 further stated that it had been writing to OP No.1 regarding query of the complainant, but it was not responding to the emails. However, after repeated reminders, OP No.1 sent one email dated 13.02.2020 by

stating false fact that the amount of renewal premium was refunded at the request of OP No.1-Bank. No such request of refund was ever made by OP No.2, rather OP No.2 took false shield of its lapse in settling the claim. Alleging no deficiency in service on its part, OP No.2 prayed for dismissal of the complaint qua it.

6. The parties led their evidence before the District Commission in support of their respective contentions and the District Commission after going through the record and hearing learned counsel for the parties, partly allowed the complaint of the complainant, vide impugned order as above. Aggrieved with the same this appeal has been filed by the appellant/OP No.1.

7. We have heard learned counsel for the parties and gone through the written arguments filed by them as well as record of the case.

8. The learned counsel for the appellant/OP No.1 has vehemently contended that the District Commission has failed to consider the material document on record i.e. letter dated 03.08.2019, which was written and forwarded by the bank officials to it. The OP-2 bank has specifically mentioned in the said letter that it has taken the consent of the complainant regarding refund of insurance premium. Accordingly, on the basis of said letter the appellant refunded the premium amount before the date of loss and on the date of loss there was no insurance contract. The learned counsel has further argued that in the absence of any insurance contract/policy, there is no intimation of claim/loss, hence there is no question of survey etc. The complainant

has failed to prove or establish any loss assessment due to said fire loss. Further in the absence of any loss assessment, the District Commission erred while giving direction of payment of claim as per policy terms and conditions. The learned counsel further argued on the similar lines as stated in the written reply and prayed for acceptance of the present appeal.

9. On the other hand, the learned counsel for respondent No.1&2/complainants has argued that the District Commission has rightly passed the order and given thoughtful consideration to the rival contentions of the parties and evidence on record. The learned counsel further argued that the document relied upon by the appellant i.e. letter dated 03.08.2019 is false and fabricated document and even OP No.2-Bank also denied the issuance of the said letter. The respondent/complainant has purchased the said policy for the period from 01.12.2017 to 30.11.2018 and paid the renewal premium amount of Rs.2,603/- in advance on 19.11.2018 for the period of 01.12.2019 to 30.11.2019 from his bank account. However, the appellant even after receiving the premium in advance has failed to reissue the insurance policy and then after a gap of 9 month, it without any information has refunded the renewal premium amount in the bank account of the complainant. The learned counsel has further argued that in case of renewal of previous policy, acceptance of renewal premium irrevocably amounts to renewal of previous policy on the same terms and conditions unless parties opted for its change. The non-issuance of the renewal policy certainly amounts to deficiency in service on the part of

the appellant. The learned counsel further argued on the similar lines as stated in the complaint and prayed for dismissal of the present appeal.

10. The learned counsel for respondent No.3/OP No.2 has argued that it has admitted by the appellant that the amount of Rs.2,603/- was deducted on 19.11.2018 from the bank account of the complainants for the renewal of policy. The appellant falsely alleged that the said amount was refunded at the instance of one letter issued by OP No.2-Bank, whereas no such letter was issued by it. The alleged document mentions about the consent of customer but it does not bear any signature of the customer. Moreover, it does not state any reasons for refund. The District Commission has rightly held the appellant deficient in service and partly allowed the complaint in favour of the complainant. The learned counsel further argued on the similar lines as stated in its written reply and prayed for dismissal of the present appeal.

11. We have given our thoughtful consideration to the contentions raised by the learned counsel for the parties.

12. The main grievance of the appellant/OP No.1 is that the District Commission has failed to consider the letter dated 03.08.2019(Ex.R-2) issued by OP No.2-Bank, whereby the bank had allegedly confirmed obtaining the complainant’s consent for refund of the insurance premium and on the basis thereof, the premium was refunded before the occurrence of the loss and, consequently, no insurance policy was in force on the date of the fire. On the other hand, the case of the respondents/complainants is that the letter dated 03.08.2019 relied upon by appellant/OP No.1 is false and fabricated

and its issuance has also been denied by OP No.2-Bank. Moreover, the complainants had already paid the renewal premium of Rs.2,603/- on 19.11.2018 for the subsequent policy period, but appellant/OP No.1 neither renewed the policy nor informed the complainant about its non-renewal. Instead, after about nine months, the premium was refunded without any intimation. To determine the said controversy between the parties, we have perused the pleadings of the parties, evidence placed on record as well as the impugned order passed by the District Commission.

13. Now, question arises before us for consideration is whether appellant/Insurance Company can deny its liability on the ground that the policy was not renewed and further not in force at the time of occurrence of the alleged fire incident, or not? Admittedly, the amount of Rs.2,603/- towards renewal premium was deducted from the bank account of the respondents/complainants firm on 19.11.2018. The appellant/OP No.1 has taken the stand that the said amount was subsequently refunded on the request of OP No.2-Bank vide letter dated 03.08.2019. However, OP No.2 has specifically denied having made any such request. The OP No.2-Bank had specifically written emails to the appellant-Insurance company to explain the reasons as to why they did not issue the policy and refunded the premium after such a long time. The relevant part of email dated 02.10.2020 (Ex.R-3), is reproduced as under:-

> "*We once again remind you that insurance premium of Rs.2608/- was remitted for renewal of policy No.2130/01176250/000/00 on date 19.11.2018 from account No.3088444580 of Nav Bharat Traders. But instead of issuing policy you refunded the premium*

> *on 08.08.2019 directly to customers account without intimation to bank and customer as well. Therefore, you once again requested to reply/explain for refund of premium after this much time."*

Similarly, the relevant part of email dated 14.02.2020 (Ex.R-5) is also reproduced as under:-

> "*Dear sir,*
>
> *Going through the trailing mail, in which you have mentioned that B/O Nizam Road Ludhiana requested for the refund of the premium, But while going through the our record, we do not find any request letter for refund of premium and refund note. We also had inquiry from predecessor branch manager, he also said that we never made such request to cholamandalam Insurance company*".

Moreover, from the perusal of the said refund letter dated 03.08.2019 (Ex.R-2), we find that the said application for refund is not on the bank's Letter Head, which raises a doubt on the genuineness of the said letter. Even no specific reason was ticked in the said letter for refund of the renewal premium paid in advance by the respondents/complainants. As such, the same cannot be relied upon, especially when its issuance has been denied by appellant/OP No.2-Bank. The complainant's firm had a legitimate reason to believe that the insurance cover was being continued, particularly when the premium had already been deducted from its account. Appellant/OP No.1, having neither issued the renewed policy nor established due intimation of its decision not to renew the same, cannot subsequently take advantage of its own omission and contend that there was no insurance cover on the date of the fire. It is a settled principle of fairness that a party cannot take advantage of its own wrong or omission. In the present case, appellant/OP No.1 retained the authority and responsibility to communicate the status of the proposed renewal to the insured. If the premium was refunded and the policy was not renewed, the complainants ought to have been

informed promptly so that it could arrange alternative insurance cover. Failure to do so deprived the complainants of such an opportunity. The subsequent credit of the premium amount into the complainant's bank account cannot, by itself, be treated as sufficient proof that the complainant had knowledge of the non-renewal of the policy. There is no convincing material on record showing that appellant/OP No.1 specifically brought the fact of non-renewal and refund of premium to the notice of the complainants before the occurrence of the fire on 11.11.2019. The defence of the appellant that no policy was in force on the date of the incident, without satisfactorily explaining the failure to intimate the complainant about the non-renewal after deduction of the premium, does not inspire confidence. Such conduct on the part of appellant/OP No.1 certainly amounts to deficiency in service. Accordingly, the finding of the District Commission holding OP No.1 liable does not call for interference.

14. Sequel to our above discussion, we find that the District Commission has rightly decided the case and there is no material infirmity and irregularity in the order of the District Commission. Finding no merit in this appeal filed by the appellant/OP No.1, the same is hereby dismissed & the order of the District Commission is upheld.

15. The appellant had deposited a sum of Rs.25000/- at the time of filing of the appeal and further deposited an amount of Rs.4,35,258/- in compliance with the order of this Commission. These amounts alongwith interest, which has accrued thereon, if any, shall be remitted by the Registry to respondents No.1&2/complainants by way of

demand draft/crossed cheque after the expiry of 45 days from the date of receipt of certified copy of this order, in accordance with law.

16. The appeal could not be decided within the stipulated period due to heavy pendency of Court cases.

**(H.P.S. MAHAL)**
**PRESIDING JUDICIAL MEMBER**

**(KIRAN SIBAL)**
**MEMBER**

**October 06, 2026**
***(Dv)***