

INSURANCE INSIGHT

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The Hon'ble Supreme Court in the case of M/S Universal Sompo General Insurance Company Limited v. Suresh Chand Jain & Anr., SLP (C) no.5263 of 2023 has considered whether the Apex court can entertain a special leave to appeal under Article 136 directly against the order passed by the NCDRC in exercise of its appellate jurisdiction.

The Hon'ble Supreme Court held that as per the provisions of both Consumer Protection Act, 1986 and 2019, the remedy of appeal against an order passed by NCDRC is available only against orders passed under the section 21(a)(i) of the 1986 Act and 58(1)(a)(ii) and 58(1)(a)(i) of the 2019 Act.

In other words, both the Acts provide for the remedy of appeal to this Court only with respect to the orders which are passed by the NCDRC in its original jurisdiction or as the court of first instance (original orders) and no further appeal lies against the orders which are passed by the NCDRC in exercise of its appellate or revisional jurisdiction.

The Hon'ble Supreme Court further held that appeal to this Court is provided against the order passed by the NCDRC in exercise of its powers conferred under Section 21(a)(ii) of the Act 1986. There is no provision for filing any further appeal against the order passed on the appeal filed against the order of the SCDRC. In such circumstances, the petitioner has come before this Court under Article 136 of the Constitution.

The Hon'ble Supreme Court in this case further discussed the jurisdiction of Supreme Court to grant special leave to appeal and reiterated that it can only be granted in very exceptional circumstances.

Further, it held that although the provisions of Article 136 of the Constitution as such are not circumscribed by any limitation, the question of law of general public importance or a decision which shocks the conscience of the Court are some of the prime requisites for the grant of special leave, however it is also reiterated that when the party aggrieved has alternative remedy to go before the High Court, invoking its writ jurisdiction or supervisory jurisdiction as the case may be, this Court should not entertain petition seeking special leave thereby short-circuit the legal procedure prescribed.



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