

**(2017) 07 NCDRC CK 0017**

**In the National Consumer Disputes Redressal Commission**

**Case No : 1367 of 2017**

ALOK SINHA S/O SHRI PRAKASH CHANDRA SINHA

APPELLANT

Vs

MAHINDRA & MAHINDRA LTD., & ORS.

RESPONDENT

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**Date of Decision : 26-07-2017**

**Acts Referred:**

<a href=3999>Consumer Protection Act, 1986</a>, <a href=3999-17>Section 17(2)</a>, <a href=3999-17>Section 17(2)(b)</a> - Jurisdiction of the State Commission - Jurisdiction of the State Commission

**Citation : (2017) 07 NCDRC CK 0017**

**Hon'ble Judges : Ajit Bharihoke, Anup K Thakur**

**Advocate : Vivekanand Jha**

**Final Decision : Appeal Dismissed**

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## **Judgement**

1. This appeal is directed against the order of the State Commission Delhi dated 27.04.2017 vide which the State Commission returned the complaint to the complainant for being filed before the appropriate fora on the premise that State Commission Delhi does not have territorial jurisdiction to try the complaint.

2. Briefly stated facts relevant for the disposal of the appeal are that complainant purchased Mahindra Rexton car being registration no. UP16 AR 6872 from OP No.2 situated at Sector 63, Noida. Respondent No.1 is the manufacturer of the car. It is the case of the complainant that shortly after the purchase, subject vehicle started giving problem. The complainant sent the car to the opposite party's workshop on several occasions but the defects could not be rectified On 25.02.2014 when the complainant tried to unlock the car with the remote key, the door did not open. Thus the complainant alleging manufacturing defect in the car filed the consumer complaint.

3. The State Commission Delhi on consideration of material on record and relying upon the judgment of the Supreme Court in the matter of Sonic Surgical Vs. National Insurance Company Ltd. (2010 ) 1 State Commission 133 came to the conclusion that State Commission Delhi has no jurisdiction to entertain the

complaint because no part of cause of action arose in Delhi. Accordingly, complaint was returned. Feeling aggrieved, the complainant has come in appeal.

4. Learned counsel for the appellant has contended that impugned order of the State Commission is based upon incorrect reading of Section 17 (2) of the Consumer Protection Act, 1986 which deals with territorial jurisdiction of State Commission. Expanding on the argument, learned counsel has contended that State Commission has failed to appreciate that OP No.1 manufacturer company is fully equipped and controlling branch office at Delhi for all purposes. Therefore, the State Commission has territorial jurisdiction to try and adjudicate the consumer complaint.

5. We do not find merit in the contention of learned counsel for the appellant. On perusal of impugned order, we find that order of the State Commission is based upon the law laid down by Hon''ble Supreme Court in the matter of Sonic Surgical Vs. National Insurance Company Ltd. (supra). In the said judgment, while dealing with the issue of interpretation of Section 17 (2) of the Consumer Protection Act, Hon''ble Supreme Court has observed as under:

"Moreover, even if it had application, in our opinion, that will not help the case of the appellant. Learned counsel for the appellant submitted that the respondent-insurance company has a branch office at Chandigarh and hence under the amended Section 17(2) the complaint could have been filed in Chandigarh. We regret, we cannot agree with the learned counsel for the appellant. In our opinion, an interpretation has to be given to the amended Section 17(2) (b) of the Act, which does not lead to an absurd consequence. If the contention of the learned counsel for the appellant is accepted, it will mean that even if a cause of action has arisen in Ambala, then too the complainant can file a claim petition even in Tamil Nadu or Gauhati or anywhere in India where a branch office of the insurance company is situated. We cannot agree with this contention. It will lead to absurd consequences and lead to bench hunting. In our opinion, the expression "branch office" in the amended Section 17(2) would mean the branch office where the cause of action has arisen. No doubt this would be departing from the plain and literal words of Section 17(2)(b) of the Act but such departure is sometimes necessary (as it is in this case) to avoid absurdity. [vide G.P. Singh's Principles of Statutory Interpretation, Ninth Edition, 2004 P. 79] In the present case, since the cause of action arose at Ambala, the State Consumer Redressal Commission, Haryana alone will have jurisdiction to entertain the complaint.

For the reasons stated hereinabove, we do not see any reason to interfere with the impugned order of the NCDRC. Accordingly, this appeal is dismissed. No order as to the costs."

6. Admittedly, OP No.1 has its Head Office at Mumbai and subject car was purchased at Noida i.e. beyond territorial limits of State Commission Delhi. Merely because opposite party has branch office at Delhi, in view of the above

noted judgment of the Supreme Court, it cannot be said that State Commission Delhi has jurisdiction to entertain this complaint. Thus, we do not find fault with the order of the State Commission. Appeal is accordingly dismissed.