
(2006) 04 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

EMPLOYEES STATE INSURANCE CORPORATION

APPELLANT

Vs

Mohan Lal

RESPONDENT

Date of Decision : 27-04-2006

Acts Referred:

Citation : 2006 3 CPR 52 : 2006 4 CPJ 312 : 2007 1 UC 590

Hon'ble Judges : Arun Kumar Goel , Narinder Singh Thakur , Saroj Sharma J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is directed against the order dated 18.3.2004, passed by District Forum, Shimla camp at Solan, in Complaint No. 355 of 2002. By means of this order it has been directed as under: "In view of the foregoing reasons, we hereby direct the OP. Nos. 1 and 2 to make the balance payment of medical reimbursement bills amounting to Rs. 3,361.75 to the complainant within a period of one month from today, failing which the OPs shall be liable to pay interests on this amount at the rate of 12 per cent per annum w.e.f. the date of filing of the complaint, till final payment is made. The litigation cost is assessed at Rs. 1,000."

2. WHEN this appeal came up for consideration it was urged on behalf of the appellant that even if what was alleged in the complaint is accepted to be correct for the sake of argument, still Foras under the Consumer Protection Act, 1986 have no jurisdiction to entertain much less decide cases under the Employees" State Insurance Act, 1948. Reference was made by the learned Counsel for the appellant to Section 75(3) of this Act. For ready reference it is extracted herein below. "No Civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by [a Medical Board, or by a medical appeal Tribunal or by the Employees" Insurance Court.]"

Since the question of jurisdiction is purely based on examination and interpretation of Section 75(3) supra, we have not taken note of the facts. In this behalf learned Counsel for the parties stated that if this Court comes to the

conclusion that Foras under the Consumer Protection Act, 1986 have the jurisdiction only then the appeal needs to be examined on its merits.

A bare reading of the provision extracted hereinabove clearly shows, that in the matters relating to the cases covered by the Act of 1948, supra Foras under the Consumer Protection Act, 1986 have no jurisdiction. This was held by the National Consumer Commission, New Delhi in the case of Arun Kumar Gupta v. Employees State Insurance Corporation, Revision Petition No. 543 of 1996, Decided on 3.9.1998, III (1998) CPJ 11 (NC).

3. SUBSTANCE of this decision is that the Employees" State Insurance Act, 1948 being a special law, remedy if any available to a complainant like respondent, is to go to Employees" State Insurance Court for appropriate relief and jurisdiction of the Foras constituted in Consumer Protection Act, 1986 to entertain such type of complaint was held to be barred under Section 75(3) supra. Nothing has been brought to our notice to take a different view of the decision of National Commission. This decision was followed in case titled as Employees State Insurance Corporation v. Rakesh Kumar Gupta and Another, Appeal No. 2 of 1999, Decided on 11.4.2001 by this Commission as well.

4. NO other point was urged. In view of the aforesaid discussion this appeal deserves to be allowed and it is ordered accordingly. As a result of it, while setting aside the order dated 18.3.2004, in the case titled as MohanLal v. Employees State Insurance and Another, Complaint No. 355 of 2002, decided on 18.3.2004, passed by District Forum, Shimla camp at Solan, complaint stands dismissed. Parties are left to bear their own costs. All interim orders shall stand vacated forthwith. Office will make available copy of this order to the parties free of cost as per rules. Appeal allowed.