

(1992) 01 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

PUBLIC HEALTH ENGINEERING DEPARTMENT

APPELLANT

Vs

UPBHOKTA SANRAKSHAN SAMITI

RESPONDENT

Date of Decision : 29-01-1992

Acts Referred:

Citation : 1992 0 CPC 353 : 1992 1 CPJ 182 : 1992 1 CPR 569 : 1993 1 CLT 450

Hon'ble Judges : V.Balakrishna Eradi , A.S.Vijayakar , Y.Krishan , B.S.Yadav J.

Advocate : P.I.Jose

Judgement

1. THE short question raised in this Revision Petition is whether the State Commission was right in setting aside the order of the District Forum returning the complaint petition for presentation before the proper forum on the ground that the subject matter of the complaint was beyond the pecuniary jurisdiction of the District Forum.

2. THE complaint was preferred by a body called Consumer Protection Committee, Jodhpur (Upbhokta Sanrakshan Samiti, Jodhpur) seeking to recover from the Public Health Department, Jodhpur compensation for alleged negligence on its part resulting in a large number of persons in the Jodhpur city getting infected by jaundice which spread out in epidemic form. It is stated in the complaint petition that though the names and addresses of only 46 persons are mentioned therein specifically, there were thousands of other sufferers who are similarly placed and that the complaint is filed on behalf of all of them also. THE prayer in the complaint petition is that every "student victim" of jaundice should be awarded a compensation of Rs. 20,000/-, every "general victim" Rs. 10,000/- and the legal representatives of persons who succumbed to the illness of jaundice should be compensated at the rate of Rs. 1 lakh each. Under Section 11 of the Consumer Protection Act, the District Forum is vested with jurisdiction to entertain complaints only in cases where the value of the goods and services and the compensation, if any, claimed is less than Rs. 1 lakh. In paragraph 4 of the complaint petition it is specifically mentioned that quite a few deaths have been reported and atleast one death with jaundice occurred in Mahatma Gandhi

Hospital itself. When the prayers in the said petition were subsequently amended before the District Forum, the complainant has stated in sub-para 4(b) of para 2 of the amendment petition that hundreds of students suffered from jaundice during the month of February and March, 1989. The exact number of "general victims" is not specified but the averments in the petition would indicate that there were thousands of them. From these averments and prayers contained in the petition itself it is manifest that the value of the compensation claimed in the petition by far exceeds the amount of Rs. 1 lakh.

We are unable to appreciate the reliance placed by the State Commission on the preamble and the statement of objects and reasons of the Consumer Protection Bill in deciding the question of jurisdiction when the terms of Section 11 which govern the matter are absolutely clear, specific and unambiguous. The reasoning of the State Commission is that "the District Forum has to go by the value as specified for each Consumer".

3. IN our opinion this proposition is clearly wrong since under the terms of Section 11 of the Act the pecuniary jurisdiction of the District Forum would depend upon the quantum of compensation claimed in the petition. The view expressed by the State Commission is not based on a correct understanding or interpretation of Section 11. On the plain words used in Section 11 of the Act, the aggregate quantum of compensation claimed in the petition will determine the question of jurisdiction and when the complaint is filed in a representative capacity on behalf of several persons, as in the present case, the total amount of compensation claimed by the representative body on behalf of all the persons whom it represents will govern the valuation of the complaint petition for purposes of jurisdiction. The quantum of compensation claimed in the petition being far in excess of Rs. 1 lakh the District Forum was perfectly right in holding that it had no jurisdiction to adjudicate upon the complaint. The reversal of the said order by the State Commission was contrary to law. The Order of the State Commission is accordingly set aside, and the order passed by the District Forum directing the return of the Complaint Petition to the petitioner for being presented to the competent forum under the Consumer Protection Act, 1986 will stand restored. No costs. Order accordingly.