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Represented by Its Divisional Manager and Others**

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Represented by Its Divisional Manager and Others**

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Mar-05-2010

Judge : The Honourable Mr. K. Satyanand, Member, the Honourable Mr. Syed
Abdullah, Member & the Honourable Mr. R. Lakshminarsimha Rao, Member

Appeal No. : R.P. No.20 of 2009 against IA 393 of 2008 in C.C .No.182

Appellant : A. Savithri and Others

Respondent : The United India Insurance Company Limited Represented by Its
Divisional Manager and Others

Judgement :

Oral order:

Syed Abdullah, Member:

The revision petitioner is the complainant in CC182/2008 before the District
Forum, Kurnool.

Aggrieved by the order dated 09.01.2009 passed in IA 393/2008 in CC 182/2008
in dismissing the complaint on the ground that the complaint filed by her is not in
consonance with the provisions of Sec. 11 of C P Act for want of territorial

jurisdiction.

During pendency of the complaint in CC 182/2008, the OP. 3 filed petition Under Section 11 of C P Act. stating that the complainants have mischievously selected the District Forum which lacks territorial jurisdiction to entertain the complaint. The complaint is filed to suit their convenience. As per section 11 of CP Act, the District Forum has no territorial jurisdiction. Admittedly, the Insurance policy was issued by OP. 2 having its office at Alapperzha of Kerala State. The insured had taken the policy under group insurance scheme at Travencore Devoswom Board, Sabarimela , Kerala. While so, the death of the insured had taken place at Sabarimela, Kerala State. Further the claim was submitted to OP 2 who had repudiated it at Alapperzha of Kerala State where the divisional office is situate. The OP 3 is not the branch office of the Insurance company of OP.2 and it is admittedly Divisional Office like OP 2 which is an administrative functionary. OP 3 is made as a party in the complaint whose office situate at Kerala State. The cause of action narrated in the complaint is erroneous. As such it is necessary that the case is to be transferred out of this Forum at the preliminary stage itself to avoid unnecessary litigation without jurisdiction .

Respondents/complainant filed the counter stating that the petition is frivolous one as such it is not maintainable. The District Forum had registered the complaint and issued notices without pointing out any objection as such the said objection cannot be entertained as a preliminary issue. As per section 11 (12) (a) of C P. Act 1986 a complaint may be instituted in a District Forum within the local limits of whose jurisdiction the OP carries on business. OP 2 is doing business through OP.3 as such the District Forum has jurisdiction to entertain the complaint. As per Section 11(2) (a). a complaint can file in any place where the OP carries on business or has a branch office or personally works for gain. The complaint is filed at Kurnool where the Divisional Office of OP 2 is having regional office. OP 3 is also a Divisional office having its office at Kurnool carrying on the same business. The contention that cause of action arises only where the transaction and incident took place and such contention cannot be entertained.

After hearing both sides the District Forum allowed the petition filed by the first respondent holding that the DCF has no territorial jurisdiction and thereby the complaint was dismissed for lack of territorial jurisdiction. Both the parties have referred to various decisions of the State and National Commissions on the aspect of cause of action and the branch office carrying on similar business. The District Forum relying on the decision of the Honble National Commission reported in *Praksh Air Freight Private Ltd Vs. Vidia (India)* reported in III (2005) CPJ 90 (NC) held that mere existence of any branch office is not sufficient to constitute territorial jurisdiction and the relevant criteria for acquiring territorial jurisdiction for entertaining the complaint is accrual of cause of action or part of cause of action. In the present case the insurance policy was issued only in Kerala state as is evident from the document.

Point for consideration is whether the impugned order is sustainable. ?

Section 11 of C.P Act, 1986 has dealt with the jurisdiction of District Forum. Clause 2 makes it clear that a complaint shall be instituted in a District Forum within the local limits of whose jurisdiction (a) the opposite party or each of the opposite parties where there are more than one at the time of institution of the complaint actually and voluntarily resides. (carries on business or has a branch office or) personally works for gain (b) any of the opposite parties where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or (carries on business or has a branch office) or personally works for gain provided that in such case either the permission of the District Forum is given or the opposite parties who do not reside, or (carry on business or have a branch office) or personally works for gain, as the case may be, acquiesce in such institution or (c) the cause of action wholly or in part arises. Similarly Section 2(1)(aa) has defined branch office means (i) any establishment described as a branch by the opposite party or (ii) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment

The undisputed fact that OP 1 who is the Executive officer , Travancore Devaswom Board, had obtained the Group Insurance scheme benefit policy for

the benefit of devotees of Swami Ayyappa who attend for pilgrimage to Sabarimala and that the deceased was insured during his pilgrimage. The incident of death took place while climbing the Sabarimala temple along with his colleagues where he suddenly fell down and in the stampede he had fallen down resulting his death on the spot. The police had registered the case in Cr. No 17/2007 u/s. 174 Cr. P.C. and the police kept the dead boy in the mortuary for identification and then post mortem was conducted in Government General hospital, Pathanimitta on 23.01.2007. As per the doctors certificate the death was due to cardiac arrest. It is also not in dispute that the complainant went to Sabarimala in search of her husband and enquired about him and on 25.1.2007 she came to know that her husband died of accidental death and she identified the photographs of the deceased and confirmed his death. At that time she came to know that the deceased had insurance coverage and on that she preferred a claim with OP 2 having its office in Kerala State and that the claim was repudiated by OP 2 on the ground that the death had taken place in normal course which does not warrant any accidental benefit under the coverage.

There is no shadow of doubt in the facts of the case that the insurance policy was taken by OP 1 as a group insurance to cover the risk of all the devotees including the deceased husband of the complainant and that the cause of action has not arisen anywhere in the A. P. State. So also the respondent complainant had preferred the claim with OP 2 for recovering the insurance claim under the policy but her claim was repudiated on the ground that the death was not due to any accident. Whatever may be reason given by OP 2 in repudiating the claim the entire cause of action had arisen only within the courts situate in Kerala state. Merely because OP 3 is having its divisional office carrying on similar insurance business it cannot be said that a part of cause of action arose at Kurnool where the Divisional office is situate and so the local Courts have jurisdiction to entertain it. The District Forum in its reasoned order has rightly held that mere existence of branch office is not sufficient to constitute territorial jurisdiction and the relevant criteria in acquiring territorial jurisdiction to entertain the complaint must be accrual of cause of action or part of cause of action which is completely lacking in the present case which is quite evident from the documents filed by the complainant herself. Section 11 is very clear in respect of territorial jurisdiction to entertain a

complaint. The impugned order does not suffer from any legal infirmity as such it does not warrant any interference.

In the result, the Revision is dismissed confirming the order passed in IA 393/2008 in CC 182/2008 as justified. The revision petitioner is at liberty to take return of the complaint and filed before the appropriate Forum. No costs.

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