

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3585 OF 2017
(@ Special Leave Petition No.37288 of 2013)

RAM KUMAR SHARMA ... APPELLANT(S)

VS.

REGIONAL CENTRE (ECHS) CANTT. & ORS. ... RESPONDENT(S)

O R D E R

1. Leave granted.
2. The appellant before this Court is an Ex-serviceman. Consequent upon his retirement, he enrolled himself as a member of the Ex-servicemen Contributory Health Scheme (hereinafter referred to as 'ECHS'). In 2009, he suffered a fracture of the right acetabulum. It is alleged, that he remained bed ridden thereafter. On 25.5.2010, he happened to be in Delhi. Whilst in Delhi, he allegedly experienced severe pain in his right hip. He accordingly visited the Escorts Heart Institute and Research Centre, wherein, he was treated by Dr. P.S. Maini. He was advised immediate admission, on account of his medical emergency. Immediately on his admission, the nearest ECHS polyclinic was intimated by the Escorts Hospital. Further intimation thereof, was also dispatched to the ECHS Centre, at Pathankot.
3. It is not a matter of dispute, that at the Escorts Hospital, the appellant incurred an expenditure of

Rs.3,04,408/- (Rupees three lakhs four thousand four hundred eight only). The appellant, accordingly raised a claim of reimbursement, based on medical bills of the Escorts Hospital. The ECHS, disbursed an amount of Rs.90,000/- (Rupees ninety thousand only), to the appellant. To claim the remaining amount, the appellant made a complaint to the District Consumer Disputes Redressal Forum, District Kangra Camp at Nurpur, Himachal Pradesh. The claim raised by the appellant was accepted. The ECHS, was directed to make the balance payment. It would be relevant to mention, that while adjudicating upon the controversy, the District Consumer Redressal Forum, also arrived at a conclusion, that it had the jurisdiction to entertain the claim, raised by the appellant.

4. Dissatisfied with the determination rendered by the District Consumer Redressal Forum, the ECHS preferred an appeal before the H.P. State Consumer Disputes Redressal Commission, Shimla. The Commission, by its order dated 01.07.2013, set aside the order passed by the District Forum dated 23.04.2012 on the ground, that the District Forum did not have the jurisdiction to entertain the claim raised by the appellant. The jurisdictional issue was determined by the State Commission by recording the following observations :

"8. From a bare reading of the aforesaid provision it is more than clear that it is not the residence of the complainant which gives

the jurisdiction to a Consumer Forum, but the residence or place of work of the opposite party/parties, which may be relevant for determining the territorial jurisdiction. In the present case, respondent approached, the appellants clinic at Pathankot on 10.05.2010 for making reference to a Noida hospital for the treatment of his aforesaid fracture, which was an old one. Reference was accordingly made to ECHS Polyclinic, Noida. Respondent instead of getting himself treated at the aforesaid Polyclinic, Noida, went to Delhi and according to him, on 25.05.2010, when he was at Delhi, he had to seek admission and treatment at Escort Hospital in emergency. That means, the cause of action for the alleged claim accrued partly at Pathankot, where the respondent approached the Incharge of Polyclinic, to make reference to Polyclinic at Noida, and partly at Delhi, where he allegedly had to seek treatment at Escort Hospital, as an indoor patient, on account of emergency. Thus, no part of action accrued in the jurisdiction of Kangra District Forum.

9. Learned District Forum has observed that there is one Polyclinic of the appellants at Kangra. There is no material on record in support of the observation of the learned District Forum that there is a Polyclinic of the appellants at Kangra. Even if it be assumed for argument sake that a Polyclinic of the appellants is located at Kangra, that by itself would not give the jurisdiction to the Kangra District Forum to entertain and adjudicate the matter. The reason is that none of the three appellants, who are impleaded as Opposite parties, is located at Kangra, nor has the alleged clinic at Kangra anything to do with the cause of action pleaded by the respondent/complainant. It has been held by the Hon'ble Supreme Court in Sonic Surgical versus National Insurance Company Limited, (2010) 1 Supreme Court Cases 135, that mere location of a branch/or office of the Opposite party within the area of a particular Forum does not confer territorial jurisdiction upon the Forum for that area, jurisdiction would vest in such a Forum if a part of the Cause of action is also shown to have accrued in that area.

10. In view of the above discussion, we are of

the view that the District Forum for Kangra not have the territorial jurisdiction to entertain the complaint. Hence, the appeal is allowed, impugned order set aside and the complaint is ordered to be returned, to the respondent for presentation to the Forum having jurisdiction in the matter."

5. The appellant impugned the order dated 01.07.2013 before the National Consumer Disputes Redressal Commission, New Delhi. The National Commission dismissed the revision petition filed by the appellant on 30.09.2013, by upholding the issue of jurisdiction, i.e., that the District Forum had no jurisdiction to entertain the claim raised by the appellant. The above order dated 30.09.2013 has been assailed by the appellant before this Court.

6. Having given our thoughtful consideration to the observations recorded by the State Commission, which have been extracted hereinabove, we are of the view, that the State Commission misdirected itself in determining the issue of jurisdiction. The State Commission has only taken into consideration the fact, that the appellant sought treatment at various locations, which were not the place where the claim was filed by the appellant. The expression recorded hereinabove, with reference to the Commission having misdirected itself, is for the reason, that the appellant never claimed any deficiency in the medical services rendered towards him. Therefore, the consideration where the appellant had first sought medical consultation, and where he was eventually treated

and operated upon, was totally irrelevant. Had he sought compensation on account of lack of medical facilities, the observations recorded by the State Commission would have been justified. The deficiency of services claimed by the appellant was with reference to the non-disbursement of dues to the appellant under the ECHS scheme. It is not disputed before us, that the ECHS did have an office at Kangra, where the appellant had approached the District Consumer Redressal Forum, in the first instance. We therefore, hereby set aside the order passed by the State Commission dated 01.07.2013, as also, by the National Commission dated 30.09.2013, insofar as, the issue of jurisdiction is concerned.

7. Having recorded the conclusions as above, we remand the matter for adjudication on merits to the H.P. State Consumer Disputes Redressal Commission, Shimla. Parties are directed to appear before the State Commission on 10th April, 2017.

8. The civil appeal is disposed in the above terms.

.....CJI.
[JAGDISH SINGH KHEHAR]

.....J.
[Dr. D.Y. CHANDRACHUD]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
1st March, 2017.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).37288/2013

(Arising out of impugned final judgment and order dated 30/09/2013
in RP No.3122/2013 passed by the National Consumers Disputes
Reddressal Commission, New Delhi)

RAM KUMAR SHARMA

Petitioner(s)

VERSUS

REGIONAL CENTRE (ECHS) CANTT. & ORS
(With office report)

Respondent(s)

Date : 01/03/2017 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SANJAY KISHAN KAULFor Petitioner(s) Mr. Lekh Raj Rehalia,Adv.
Mr. Sparsh Kant Nayak,Adv.
Mr. Raj Kumar Prasad,Adv.
For Mr. K.S. Rana,Adv.For Respondent(s) Ms. Pinky Anand,ASG
Ms. Jyotika Kalra,Adv.
Ms. Somya Rathore,Adv.
Ms. Ninedita Nair,Adv.
Mr. Karan Seth,Adv.
For Mr. Mukesh Kumar Maroria,Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The civil appeal is disposed of in terms of the
signed order.(Sarita Purohit)
Court Master(Renuka Sadana)
Assistant Registrar

(Signed order is placed on the file)