SUPREME COURT OF INDIA

Sonic Surgical

Vs.

National Insurance Company Ltd.

C.A.No.1560 of 2004

(Markandey Katju and Asok Kumar Ganguly JJ.)

20.10.2009

ORDER

Heard learned counsel for the parties.

This appeal by special leave has been filed against the order dated 10th July, 2003 of the National Consumer Disputes Redressal Commission, New Delhi (for short 'NCDRC') whereby the appeal filed by the respondent herein has been allowed and the order of the Consumer Disputes Redressal Commission Union Territory, Chandigarh has been set aside. It appears that there was a fire on 13-14th February, 1999 at 10.00 p.m. in the godown of the appellant at Ambala. For claiming compensation, the appellant filed a claim petition before the Consumer Commission of the Union Territory, Chandigarh constituted under Section 17 of the Consumer Protection Act, 1986 (hereinafter for short 'the Act'). The said claim petition filed by the appellant herein was allowed by the Consumer Commission of the Union Territory, Chandigarh. On appeal, the NCDRC allowed the appeal of the respondent herein on the ground that the Consumer Commission at Chandigarh had no jurisdiction to entertain and adjudicate the complaint. We are in agreement with the view taken by the NCDRC.

In our opinion, no part of the cause of action arose at Chandigarh. It is well settled that the expression 'cause of action' means that bundle of facts which gives rise to a right or liability. In the present case admittedly the fire broke out in the godown of the appellant at Ambala. The insurance policy was also taken at Ambala and the claim for compensation was also made at Ambala.

Thus no part of the cause of action arose in Chandigarh. One of us (Hon'ble Mr. Justice Asok Kumar Ganguly) while a Judge of the Calcutta High Court in the case of IFB Automotive Seating and System Ltd. and Others Vs. Union of India AIR 2003 Calcutta, 80 has dealt with the question as to the meaning of the expression 'cause of action'. Placing reliance on a decision of this Court in the case of Union of India Vs. Adani Exports Ltd. AIR 2002 SC 126, in para 40 of the said judgment it has been observed as under :-

In Adani Exports (AIR 2002 SC 126) (supra) the learned Judges in para 13 set out the facts pleaded by the petitioner to give rise to cause of action conferring territorial jurisdiction on the Court at Ahmedabad. One of the facts pleaded is that non-granting and denial utilization of the credit in the pass book will affect the business of the respondents at Ahmedabad. This fact is not pleaded in the case in hand.

Even then the learned Judges held that those facts are not sufficient to furnish a cause of action as they are not connected with the relief sought for by the respondents.

Here also the relief is against the orders of approval and this High Court has no territorial jurisdiction to grant that relief. Therefore, the communication to the effect that the petitioners' representation against orders of approval is rejected is of no consequence. The Supreme Court, further dealing the concept of Aritcle 226(2) and relying on the decision of ONGC (1994 AIR SCW 3287), explained the concept of cause of action in para 17 at page 130 of the report and the relevant extracts wherefrom are excerpted below :

It is clear from the above judgment that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the Court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the Court concerned.

The learned Judges also held in para as follows :

The non-granting and denial of credit in the passbook having an ultimate effect, if any, on the business of the respondents at Ahmedabad would not also, in our opinion, give rise to any such cause of action to a Court at Ahmedabad to adjudicate on the actions complained against the appellants.

We respectfully agree with the view taken by the Calcutta High Court in the aforesaid decision of IFB Automotive Seating(supra). Hence, in our opinion, no part of the cause of action in the present case arose at Chandigarh.

Learned counsel for the appellant then invited our attention to the amendment brought about in Section 17(2) of the Act in the year 2003. The Amended Section 17(2) of the Act reads as under :-

(2) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction,-

(a) the opposite party or each 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; or

(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 State Commission 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;

(c) the cause of action, wholly or in part, arises. The aforesaid amendment came into force w.e.f. 15.3.2003 whereas the complaint in the present case has been filed in the year 2000 and the cause of action arose in 1999. Hence, in our opinion, the amended section will have no application to the case at hand. 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.