

Assessing the Pecuniary Jurisdiction under The Consumer Protection Act, 2019: A Cause for Concern?

Introduction

The Government of India ('GoI') recently notified the Consumer Protection Act, 2019 ('2019 Act') replacing Consumer Protection Act, 1986 ('1986 Act'). At the time of its formulation, the 1986 Act was much needed to establish a framework through which the Indian consumer could avail remedies in cases of defects in goods, deficiencies in services etc. However, the 1986 Act was unable to keep up with the changing nature of the market and the omnipresence of the digital economy. Accordingly, a new law was needed in order to firstly recognize the manner in which the Indian Consumer negotiated with the market and secondly to streamline the various rights and duties which arise out of this negotiation.

Therefore, the 2019 Act was ushered in with a slew of changes such as – having a separate regulator, easing the manner in which complaints are to be filed, extending the rules of direct selling to digital platforms and so on. Further, the 2019 Act altered the manner in which the judicial fora such as the District, State and National Consumer Disputes Redressal Commissions were to admit cases by tweaking the erstwhile requirements of assessing the pecuniary jurisdiction which existed under the 1986 Act.

The modifications to the pecuniary jurisdiction were meant to alleviate the disproportionate burden of cases which fell upon the National Consumer Disputes Redressal Commission ('NCDRC') by apportioning a larger share to the District and State Consumer Disputes Redressal Commissions. However, in doing so an unforeseen and unintended consequence of assessing the pecuniary jurisdiction under the 2019 Act has been to prejudicially affect certain consumers who may avail insurance policies from an Insurance Service Provider ("ISP").

Pecuniary Jurisdiction under The 1986 Act and 2016 Act

The 1986 Act as compares with the 2019 Act provided for the pecuniary thresholds for various forums in the following manner:

Forum	1986 Act	2019 Act
District	Upto INR 20 Lakh	Upto INR 1 Crore
State	INR 20 Lakh to 1 Crore	INR 1 Crore to 10 Crores
National	Above INR 1 Crore	Above INR 10 Crores

However, the criterion under the 1986 Act to determine the pecuniary jurisdiction often resulted in a disproportionately larger amount of cases falling under the pecuniary jurisdiction of the NCDRC. The primary reason for this was the manner of determining the pecuniary jurisdiction which was the '*the value of the goods or services and the compensation,*

if any, claimed'. Accordingly, the value of the final good bought or service availed would rest firstly, on the price which a consumer has paid as consideration and secondly upon the amount of compensation that has been prayed for in the complaint.

This manner of determining the pecuniary jurisdiction has been explained in the case of *Ambrish Kumar Shukla v.. Ferrous Infrastructure Pvt. Ltd (Ambrish Kumar Judgment)*.^[1] However, it is pertinent to note, that there does not exist any guidance by which a consumer may reasonably determine claims for compensation. Naturally, this resulted in a situation wherein consumers often claimed astronomical amounts of compensation despite the actual consideration being relatively less and as a consequence the District and State Commissions would be ousted of jurisdiction.

The 2019 Act attempts to remedy this situation by not only increasing the monetary threshold for determining the jurisdiction under each fora but also alters the criterion on the basis of which the monetary jurisdiction under the 2019 Act is to be computed. In this regard, the 2019 Act increased the pecuniary jurisdiction of the - District Commissions to INR 1 Crore, the State Commissions from INR 1 Crore to INR 10 Crores and for the National Commission all claims which are above INR 10 Crores. More importantly, the 2019 Act has shifted from '*the value of the goods or services and the compensation, if any, claimed*' to '*the value of the goods or services paid as consideration*'. Accordingly, the sole criteria to determine the pecuniary jurisdiction is the amount paid by a consumer for a good or service which would be determinative of its value.

The case of M/S Pyaridevi Chabiraj Steels Pvt. Ltd v. National Insurance Company Ltd.

The above-mentioned change was brought in to ostensibly put in place a framework through which the pecuniary jurisdiction could be easily determined. Further, the fact that the legislature chose to omit the "*compensation*" claimed by a consumer in assessing the jurisdiction is testament to the legislature's intention of streamlining the method of determining the pecuniary jurisdiction by ousting individual whims of a consumer. However, recently in the case of *M/s Pyaridevi Chabiraj Steels Pvt. Ltd v. National Insurance Company Ltd*^[2] (**Pyaridevi Judgment**) the National Commission had the occasion of determining a question of law which arose from the new jurisdictional thresholds and the same has raised certain concerns.

In the *Pyaridevi Judgment* the case before the commission was concerning an insurance claim worth INR 28,23,05,135/-, denied to the insurance holder by the National Insurance Company, Kolkata. A primary contention before the Commission was regarding the value of the applicant's claim falling below threshold of pecuniary jurisdiction of the Commission. The respondent argued before the Commission that by virtue of Section 58 (1) (a) of the 2019 Act, for determining whether a claim fits the jurisdiction of a consumer forum, only the amount paid by the consumer for procuring the goods and services, excluding the value of compensation claimed must be considered by the commissions. Therefore, considering only the value of insurance premium paid by the applicant, which was merely INR 3,20,525/- the applicant's claim falls way below pecuniary Jurisdiction of the National Commission (which is above INR 10 Crores).

In view of the above, the Applicant contended that the value of its claim shall not be solely determined on the basis of the amount of premium. Further, section 58(1)(a) must not be given a 'strict' interpretation to include only the amount of goods and services involved for computing the value of a claim. Accordingly, the term 'paid' under the section, in harmonious reading with the objectives of the Act, must include the amount of compensation claimed by the applicant. Most importantly, the Applicant claimed that by providing a strict interpretation to Section 58(1)(a), the Commission would deny several Insurance holders, a right to approach the National Commission, since there won't be any instance of any Insurance holder paying an insurance premium of more than INR 10 Crores.

The Commission rejected the Applicant's submissions and laid down that only the "value of goods and services paid as consideration" would be relevant in determining the pecuniary jurisdiction under the 2019 Act. In doing so, the Commission noted the legislative intention in omitting the term "compensation" in the 2019 Act when juxtaposed against the 1986 Act. Therefore, the amount of compensation claimed would have no bearing on the pecuniary jurisdiction of the commissions. The Commission also referred to sections 34(1), 47 (1) and 58 (1) which set out the jurisdictional thresholds for the various commissions, to conclude that only the price paid at first instance of availing a good or service would be salient in assessing the pecuniary jurisdiction. Similarly, the case of "*MS. Garima Kaushik Vs. M/s Supertech Ltd*" decided by the Delhi State Commission has held –

...The categorical inclusion of the word "consideration" and the omission of the word "compensation" made in the new Act clearly shows that the pecuniary jurisdiction before this Commission has to be determined based on the consideration paid and not on the basis of the aggregate relief sought for..."

Recurring Costs and the Problem of Price

The above-mentioned cases clarify important aspects of jurisdiction under the 2019 Act, but such an interpretation neglects industry such as the insurance sector which is premised on recurring costs. In fact, the 2019 Act is also silent on the manner in which recurring costs are to be treated. By ascribing salience on the "price" in order to determine the jurisdiction, the 2019 Act may have overlooked the rights of consumers which pay recurring costs in the form of insurance premiums at regular intervals.

It must be noted that the Ambrish Kumar Judgment had already clarified the confusion between price and market value of a good by laying down that it would be the price paid by a consumer which would ultimately vest a commission with jurisdiction. Hence, using price as the touchstone for establishing jurisdiction already existed in the erstwhile regime. The problem arose when consumers brought forward inflated claims by adding high amounts of compensation to an otherwise reasonable price.

The 2019 Act, instead of addressing this particular problem has construed the pecuniary jurisdiction in a manner which prejudices certain consumers. At present, the state of affairs in the district and state commissions are not equipped to render complete justice in consumer disputes. A damning report by Justice (Retd.) Arijit Pasayat in 2016 *inter alia* highlighted that the district and state commissions are not operating in their scheduled times, files are getting lost and damaged and the infrastructure in these courts are grossly lacking. Therefore, simply

increasing the threshold for admitting claims would not *ipso facto* translate into a better delivery of justice.

Consumers availing insurance services rarely pay over INR 10 Crores as premium. In such a situation, consumers would always have to avail a remedy before the district commissions which may not be able to adjudicate upon such claims adequately. Further, a large number of consumers raise complaints regarding their ISPs and form a major portion of all claims which come before these commissions.

The definition of “price” is not provided in the 2019 Act. It is possible to structure the payment of a good or service in a myriad number of ways, and one such way would be to have recurring yearly/monthly premiums. However, taking one solitary payment of premium as the “price” would lead to an anomalous situation wherein consumers are availing insurance services of significant amounts only to be relegated to the district commission in cases of a dispute. Such an interpretation would not be in accordance with the ethos of the 2019 Act. An alternative interpretation could have been made by referring to the definition of consumer under Section 7 of the 2019 Act. The relevant portion of Section 7 is provided herein below –

... 7) "consumer" means any person who--

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose...

In a contract of insurance, every payment of premium would ideally be a part payment made to the insurance provided in return for the insurance amount depending on the relevant contingency. Further, such contracts usually come with a term limit, and the amount lapses back to the insuree at the end of the term. Therefore, keeping in mind the larger objective of the 2019 Act, such insurees could be deemed to have made the payment of their entire insurance amount by calculating the yearly/monthly premiums and the duration of the contract. It remains to be seen, if such an interpretation is adopted by a higher court.

Conclusion

The 2019 Act is a step in the positive direction with a clear framework for gauging the pecuniary jurisdiction of the commissions. In the insurance sector in specific, the 2019 Act has certain unintended ramifications which may work to the detriment of individual insurees and end up in further overburdening the district commissions.

[\[1\]](#) Consumer Case No. 833 of 2020.

[\[2\]](#) Consumer Case No. 97 of 2016.