

'Value Of The Goods Or Services And Compensation' V/S 'Value Of The Goods Or Services Paid'

written by Simran Tandon | October 1, 2020



Compensation vs Value Paid: New Pecuniary Jurisdiction of Courts under the Consumer Protection Act, 2019

Consumer Protection Act, 2019 came into force on July 20, 2020, which replaced the act of 1986. A myriad of changes was made in the old act, among which one was the pecuniary jurisdiction of all the respective forums, be it District, State or National. 'Pecuniary' precisely signifies 'identified with cash'. Certain courts have some financial cut-off points, and they can't engage cases past their specific breaking point known as the pecuniary limit. The pecuniary limit has been changed and increased for all the forums respectively after the introduction of the new act.

<u>Name of Forum</u>	<u>Previous Limit</u>	<u>New limit</u>
National Commission	Exceeding Rs. 1 crore	Exceeding Rs. 10 crore
State Commission	Exceeds Rs. 20 lakhs but does not exceeds Rs. 1 crore	Exceeds Rs. 1 crore but does not exceed Rs. 10 crore
District Commission	Does not exceed Rs. 20 lakhs	Does not exceed Rs. 1 crore

The major change that is brought is the replacement of the term '*compensation*' with '*paid*'. Previously, the jurisdiction of the National Commission was to {*section 21 (a) (i)*} entertain complaint where the value of the goods or services and compensation exceeds one crore. According to the new act, {*section 58 (1) (a) (i)*} it is to entertain complaint where value of the goods or services paid as consideration exceeds rupees ten crore. Similar changes have been made to the jurisdiction of district and state forum.

District Commission

34. (1) Subject to the other provisions of this Act, the District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed one crore rupees.

State Commission

47. (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction— (a) to entertain— (i) complaints where the value of the goods or services paid as consideration, exceeds rupees one crore but does not exceed rupees ten crores:

M/S. PYARIDEVI CHABIRAJ STEELS PVT. LTD vs. NATIONAL INSURANCE COMPANY LTD. & 3 ORS[1]

On 28th August 2020, in National Consumer Disputes Redressal Commission, a

bench of *Justice RK Agrawal and Dr.SM Kantikar* passed an order by dismissing a complaint, that pecuniary jurisdiction of any forum to be decided by the value of goods or services 'paid' as consideration.

Brief Facts Of The Case

The complainant company had taken insurance from the National Insurance company ltd for a total sum of Rs. 28,00,20,000, but the premium amount paid was only Rs 3,20,525/-. Later the complainant took additional coverage of Rs 13,00,00,000 by paying Rs 1,23,037 as premium amount. Unfortunately, later the Howrah region, the place where the complainant company is situated was hit by a flood causing a lot of damage to the company, hence, the complainant asked for necessary insurance money from the National Insurance Company Ltd. National Insurance company repudiated the claim, which called for this matter before the forum.

Issue Raised Before The Hon'ble National Commission

It was to be decided whether or not, this complaint is maintainable before the National Consumer Disputes Redressal Commission.

Held

1. The complaint was sent on 31st July 2020 and was registered by the office on 5th august 2020. Thus, the complaint is to be considered under the provisions of the Consumer Act 2019 and not under the act of 1986.
2. As per section 58(1)(a)(i), the pecuniary jurisdiction of National Commission will lie where the value of good or services 'paid' as consideration, exceeds rupees ten crores.
3. In act of 1986, the value of goods or services and the compensation claimed were taken into consideration but after the act of 2019, the value of consideration/amount paid alone is to be taken into consideration to determine the pecuniary jurisdiction of forums.
4. The motive of legislature behind this act of 2019 was to ensure that consumer approaches the appropriate forum {District- section 34 (1), State- section 47(1) (a) (i) National- section 58 (1) (a) (i)} for their disputes.
5. In the present case, the total amount 'paid' was only Rs. 4,43,562/- (Rs. 3,20,525/- + Rs. 1,23,037/-), which is 'less' than ten crore and thus in accordance to section 58 (1) (a) (i), National Commission had no jurisdiction in the present complaint.

Illustration

The Hon'ble Bench also gave an illustration as to how this present matter could have been addressed by the National Commission if it was governed by the Act of 1986.

If a person buys a plot worth Rs. 60,00,000/-, and now asks to give back this amount, also ask for additional compensation of Rs 50,00,000/-, the total of goods or services and compensation will exceed 1 crore and as per provisions of 1986 act, it can be taken up by the National Commission, but now the term 'compensation' is replaced by 'paid' and thus, it cannot fall under the jurisdiction of National forum.

Thus on the basis of this principle, the bench dismissed the complaint.

Analysis: Need For Change In Pecuniary Jurisdiction

Previously, in the landmark case of Amrish Kumar Shukla v. Ferrous Infrastructure, [2] it was held that in a case that involves a defect in goods or any service, the aggregate amount of that good or service should be considered to determine the jurisdiction. One of the major defects in this principle was that it forced people to approach higher forums directly, bypassing district forums, which made it physically difficult for them to access. Thus it was proper to calculate the amount considering the value of defected goods or services only rather than the total amount.

The legislature while enacting this act increased the pecuniary limit of

forums to ensure that consumer does not directly approach the apex forum which burdens it with insubstantial complaints rather they should approach an appropriate forum. Thus this expansion in the pecuniary jurisdiction will decrease the excess of the appellate gathering, its backlog and baseless complaints recorded by the people before the NCDRC straightforwardly bypassing discussions of State and District commissions. This will ensure quick disposal of cases. Also, it is easy for people in terms of access to approach District commission.

However, there are some shortcomings to this decision

1) Property buyers:- The verbatim of the act is clear that the jurisdiction will be determined by the actual amount paid by the consumer, no matter what is the total value of good or service. This will have a great impact on plot/flat/ home buyers, as for example if the total cost of a property is more than Rs. 2 crore, but the consumer has paid only Rs. 40 lakhs till now, still the person cannot approach the State Commission because of the lesser 'consideration paid'.

2) Insurance and medical claims:- As per the new act of 2019, the actual paid amount will be considered, which means the 'insurance premium amount' in these claims. Now, the premium amount will be more than 1 crore in a negligible number of cases, although the entire amount of insurance could be more than 10 crores also. This will make these complaints fall under the jurisdiction of district commission, making it overburden with the cases.

3) Lack of infrastructure:- Through this act of 2019, legislature wished to reduce the pendency of the cases, but with the increase in the pecuniary jurisdiction there will be more burden on the District Commissions as the maximum number of cases will lie before it and the main problem is District Commission already have a low disposal rate and also lack proper facilities and infrastructure to handle such great number of cases all alone.

Conclusion

In my opinion, the decision of increasing the pecuniary limit was partially correct as far as it concerns overburdening of cases with appellate authority or physical accessibility to the forum. But, the negative consequences overshadow these advantages as rather than solving the problem of overburdening, it is shifting the burden from higher forum to a lower forum, i.e., district commission, which already has a low disposal rate. Also, it creates a layer of judicial process for the insurance sector and property and real estate sector, creating ambiguity with respect to the total amount of property or insurance and the actual payment. Before the enforcement of such an act, proper infrastructure could have been implemented.

- [1] NCDRC Complaint Case No. 833 of 2020
- [2] NCDRC Consumer Case No. 1498 of 2015

Contributed by - Simran Tandon

King Stubb & Kasiva,

Advocates & Attorneys

[Click Here to Get in Touch](#)

[New Delhi](#) | [Mumbai](#) | [Bangalore](#) | [Chennai](#) | [Hyderabad](#) | Kochi

Tel: [+91 11 41032969](tel:+911141032969) | Email: info@ksandk.com

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