

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
ERNAKULAM**

Dated this the 1th day of November 2024

PRESENT

Shri.D.B.Binu

President

Shri.V.Ramachandran

Member

Smt.Sreevidhia.T.N

Member

I.A No. 1146 of 2024

in

C.C. No. 505 of 2024

PETITIONER/1ST OPPOSITE PARTY

Oriental Insurance Co. Ltd. Regional Office, Metro Palace, Xavier Arakkal Road, Opp. Town Railway Station, Ernakulam North, Kacheripady, Ernakulam

(1st OP Rep. by Adv. Saji Isaac K.J, Advocate, 31 HB Flats, Panampilly Nagar, Cochin-682036)

Vs

RESPONDENTS/COMPLAINANT & 2ND AND 3RD OPPOSITE PARTIES

1. C.D Joy, S/o David, Karukapilly, Kombanad P.O., Kombanad, Ernakulam.

(Complainant Rep. by Adv. Mishal M. Dasan, Flat No. 55/2332, Cheruparambath Apartments, Mattalil Temple Road, Kadavanthra PO, Ernakulam, Pin-682020)

2. Vidal Health Insurance, TPA Services, Door No. 40/3232, 2nd Floor, S.L Plaza, Palarivattom, Kochi, Kerala-682025

3. M/s Medisep Kerala, Vandanam, Uppalam Road, Statue, Thiruvananthapuram 695001

ORDER

D.B. Binu, President

This Commission is in receipt of the Interlocutory Application (IA) filed by the 1st Opposite Party, Oriental Insurance Co. Ltd., seeking dismissal of the complaint on the ground of non-maintainability. The 1st Opposite Party contends that the grievance redressal mechanism provided under the MEDISEP scheme has not been exhausted by the Complainant.

Hence, the complaint before this Commission is premature and non-maintainable.

1. Legal Analysis and Reasoning

The core issue raised by the Petitioner is that the Complainant has not availed of the grievance redressal mechanism provided under the MEDISEP scheme. As per the terms of the MEDISEP agreement, a multi-tier grievance redressal system is in place, including District and State Level Committees for the resolution of grievances before seeking relief through legal forums. The Petitioner has cited the Hon'ble High Court decision in WP(C) No. 37967/2023 to argue that the complainant should have first approached the District Grievance Committee and the Appellate Authority.

While the argument presented by the 1st Opposite Party highlights the existence of a specific grievance redressal process under MEDISEP, it is essential to examine whether this precludes the jurisdiction of the Consumer Commission to entertain such disputes.

2. Section 100 of the Consumer Protection Act, 2019

Section 100 of the Consumer Protection Act, 2019, as previously encapsulated in Section 3 of the Consumer Protection Act, 1986, explicitly states that the provisions of the Act are in addition to, and not in derogation of, any other law for the time being in force. This provision implies that the Consumer Protection Act supplements the remedies available under other laws and does not preclude the jurisdiction of the Consumer Commission to adjudicate matters involving deficiency in services provided by insurance companies.

This view is fortified by *the Hon'ble Supreme Court's decision in the State of Karnataka v. Vishwabharathi House Building Coop. Society, (2003) 2 SCC 412*, wherein it was observed that the remedies under the Consumer Protection Act are supplemental and not exclusive and that parties can simultaneously seek remedies under other laws.

In the present case, while the MEDISEP agreement provides an alternative grievance redressal mechanism, it does not exclude the jurisdiction of the Consumer Commission. The complainant, as a consumer, has the right to approach this Commission under the CP Act, 2019, to seek redressal for any deficiency in services.

3. Precedents Supporting Jurisdiction of Consumer Commissions

The Hon'ble High Court of Kerala in Enathu Service Co-Operative Bank vs The Consumer Disputes Redressal Forum (AIR 2011 KER 145) held that the jurisdiction of Consumer Forums is not ousted merely because the complainant has not exhausted the remedy available under another statutory mechanism. The Court observed that the CP Act, 1986 (now CP Act, 2019) is aimed at providing speedy and effective remedies to consumers and does not limit or restrict the jurisdiction of Consumer Forums in cases of deficiency in service.

Further, the existence of an alternative remedy does not bar the jurisdiction of the Consumer Commissions, as the provisions of the CP Act are intended to provide a special remedy to consumers.

The law so laid by the Apex Court and binding in terms of Article 141 of the Constitution is to be followed and that settles the issue in hand, beyond any controversy.

4. Observations of the Commission

Upon a detailed analysis of the legal arguments and precedents, this Commission is of the view that the existence of an internal grievance redressal mechanism under the MEDISEP scheme does not oust the jurisdiction of the Consumer Commission. The remedies available under the Consumer Protection Act are additional to the remedies available under other laws or agreements. The Complainant has approached this Commission alleging deficiency in service by the Opposite Parties, which falls squarely within the ambit of the Consumer Protection Act, 2019.

5. Conclusion

In light of the above legal reasoning and the established precedents, this Commission finds that the plea of the 1st Opposite Party to dismiss the complaint on the grounds of non-maintainability is unsustainable.

ORDER

Accordingly, the Interlocutory Application filed by the 1st Opposite Party is dismissed, and the Commission shall proceed to hear the matter on its merits.

Pronounced in Open Court on this the 1st day of November 2024

D.B.Binu, President

V. Ramachandran, Member

Sreevidhia.T.N., Member

AKR/