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Supreme Court recognizes company as a person capable of sustaining action under the Consumer Protection Act, 1986

The Hon'ble Supreme Court of India ("**Supreme Court**") in *M/s Kozyflex Mattresses Private Limited v. SBI General Insurance Company and Anr.*¹ has clarified that a company would be considered a 'person' under the Consumer Protection Act, 1986 ("**1986 Act**") and can file a complaint for deficiency of services under the 1986 Act.

Brief Facts

Kozyflex Mattresses Private Limited ("**Kozyflex**") purchased a 'Standard Fire and Special Perils' insurance policy from SBI General Insurance Company ("**SBI Insurance**"). 2 (two) weeks after the purchase of the policy, a massive fire incident took place at Kozyflex's factory. The next day Kozyflex intimated SBI Insurance of the incident, and eventually submitted an insurance claim of INR 34,000,000 (Indian Rupees three crores forty lakhs) ("**Claim**"). SBI Insurance appointed investigators to independently assess and verify the claim. Basis the results of these assessments and verification, the investigators prepared a preliminary report and a final report (collectively, "**the Reports**"). Relying on the Reports, the Claim was repudiated on the ground that it was fraudulent and exaggerated. The Reports were not provided to Kozyflex. Aggrieved by the repudiation of the Claim, Kozyflex filed a complaint before the National Consumer Disputes Redressal Commission ("**National Commission**") under the 1986 Act, claiming deficiency in service by SBI Insurance ("**Complaint**"). On dismissal of the Complaint by the National Commission, Kozyflex approached the Supreme Court in appeal seeking remand of the Complaint to the National Commission for reconsideration on merits after giving Kozyflex an opportunity to rebut the findings in the Reports ("**Appeal**").

Submissions before the Supreme Court

Before the Supreme Court, Kozyflex contended *inter alia* that despite clarifying all the queries by the SBI Insurance appointed investigators, Kozyflex was never provided with the Reports, which were produced directly before the National Commission. Hence, Kozyflex was never given a chance to rebut the findings in the Reports.

On the other hand, SBI Insurance raised preliminary objections to the Appeal *inter alia* on the ground that the word '*company*' is not covered by the definition of '*person*' under the 1986 Act. Therefore, Kozyflex being a company is not entitled to file a complaint under the 1986 Act.

¹ Civil Appeal No. 7966 of 2022

The Supreme Court, after considering the submissions made by the parties, rejected the preliminary objections raised by SBI Insurance.

The Supreme Court held that the definition of ‘*person*’ provided in the 1986 Act is an inclusive and not an exhaustive definition. The 1986 Act being a beneficial legislation, a liberal interpretation must be given to its provisions to ensure that the legislative intent is not watered down. Further, the Supreme Court stated that the very fact that the definition of ‘*person*’ under the Consumer Protection Act, 2019 (“**2019 Act**”) was amended to include a body corporate, is by itself indicative of the legislature realising the incongruity of the definition of ‘*person*’ under the 1986 Act with the purpose sought to be achieved by the statute.

Ultimately, the Supreme Court remanded the matter back to the National Commission for reconsideration on merits after Kozyflex is given an opportunity to rebut the findings of the Reports.

JSA Analysis

The 1986 Act defines a ‘*consumer*’ to be any ‘*person*’ who buys, hires, or avails of any goods or services for a consideration provided that such goods or services are not bought, hired, or availed for any commercial purpose.

The definition of a ‘*person*’ as provided under the 1986 Act is as follows:

“ ‘*person*’ ***includes***–

- a) a firm whether registered or not;
- b) a Hindu undivided family;
- c) a co-operative society;
- d) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;”

The 1986 Act evidently makes no explicit mention of ‘*company*’ or ‘*body corporate*’ in its definition of ‘*person*’ – an exclusion that has now been remedied under the 2019 Act. This difference between the 1986 Act and the 2019 Act has led to a series of decisions by the National Commission, disallowing actions brought by companies before it.²

As a result, companies were forced to approach civil courts for redressal of their grievances, despite such grievances being inherently in the nature of consumer disputes arising out of deficiency in services. Companies were thus precluded from enjoying the benefits of the fast-tracked summary procedure provided for the adjudication of such disputes. Parallely, the civil courts, already under strain from immense pendency, were further burdened with the adjudication of disputes which should have been adjudicated by the consumer dispute redressal forums.

While admittedly a company or a body corporate does not find mention in the definition of person under the 1986 Act, it is a settled law that a company is to be considered a legal person, with an identity separate and distinct from its participants or decisionmakers. Therefore, dismissing actions merely on the basis that companies are not included in the definition of person under the 1986 Act, was a pedantic approach completely at odds with the legislative intent behind the statute.

The Supreme Court’s decision in *Kozyflex* (supra) has put a decisive quietus to this issue. In *Kozyflex* (supra), the Supreme Court appears to have adopted a purposive approach in analysing this issue, and correctly identified that the definition of ‘*person*’ is inclusive and not exhaustive in nature. While doing so, it has delivered a progressive decision which is in sync with the objects sought to be achieved by the 1986 Act. This decision will ensure that a complainant being a ‘*company*’ will in and of itself, not be a reason to prevent it from initiating an action under the 1986 Act.

² See *Shika Birla v. DLF Retailers Developers Ltd.*, National Consumer Disputes Redressal Commission CC/183/2012; *Satish Kumar Gajanand Gupta v. M/s Srushti Sangam Enterprises (India) Ltd.*, National Consumer Disputes Redressal Commission CC/296/2011; and *Shivom Projects Private Limited v. Toyota Kirloskar Motor Pvt. Ltd.*, National Consumer Disputes Redressal Commission CC/229/2014.

This decision is cognizant of the changing nature of business transactions in India and in our opinion, will benefit both companies (who can now bring actions both under the 1986 Act and the 2019 Act), as well as civil courts (who can now devote their attention to cases of inherently commercial nature which have been battling for attention).

Consumer Protection Practice

JSA has a vast experience on matters relating to consumer protection laws and related matters. We have advised clients (both domestic and global), across sectors and industries on complex queries around consumer protection laws and rules thereunder, and its interplay with other related legislations, like data privacy and exchange control laws.

We have developed a leading consumer protection practise supported by a group of extraordinarily gifted and experienced solicitors with knowledge of the essential consumer law sector. Our team has experience in managing complex consumer cases at the national level in India. We are renowned for our proficiency in successfully defending the interests of our clients.

Our key areas of advice include:

- Analysis of business activities from consumer protection laws perspective including import regulations and foreign trade policy of India;
- Advise on registration and licensing requirements;
- Advising on e-commerce rules;
- Advise on single brand retail and multi-brand retail from foreign exchange laws perspective;
- Advise on product liability issues and compliances;
- Advising on standards issued by the BIS and quality control orders including advisory in relation to inspection and enquiries by authorities;
- Advising on advertisement, packaging and labelling requirements.

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