

STATE CONSUMER DISPUTES REDRESSAL COMMISSION

KERALA

REVISION PETITION NO. SC/32/RP/14/2025

(Against the Order dated 1st November 2024 in Appeal DC/555/CC/505/2024 of the District
Consumer Disputes Redressal Commission Ernakulam)

ORIENTAL INSURANCE COMPANY LIMITED

PRESENT ADDRESS - METRO PALACE, XAVIER ARAKKAL ROAD ERNAKULAM, KERALA.

.....Petitioner(s)

Versus

C D JOY

PRESENT ADDRESS - KARUKAPILLY, KOMBANAD P.O., KOMBANAD,
ERNAKULAM ERNAKULAM, KERALA.

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE SRI.B.SUDHEENDRA KUMAR , PRESIDENT

FOR THE PETITIONER:

NEMO

FOR THE RESPONDENT:

NEMO

DATED: 10/06/2025

ORDER

KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION

VAZHUTHACAUD, THIRUVANANTHAPURAM

REVISION PETITION No. 14/2025

ORDER DATED: 10.06.2025

(Against the order in I.A.No.1146/2024 in C.C.No.505/2024 on the files of DCDRC, Ernakulam)

PRESENT:

**HON'BLE JUSTICE SRI. B. SUDHEENDRA : PRESIDENT
KUMAR**

SRI. AJITH KUMAR D. : JUDICIAL MEMBER

REVISION PETITIONER/1stOPPOSITE PARTY:

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

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(by Adv. Saji Issac K.J.)

Vs.

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RESPONDENTS/COMPLAINANT/OPPOSITE PARTIES 2 and 3:

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

(By Adv. Narayan R., Amicus Curiae)

2. Vidal Health Insurance, TPA Services, Door No.40/3232, 2nd Floor,
SL Plaza, Palarivattom, Kochi – 682 025

3. M/s MEDISEP Kerala, Vandanam, Uppalam Road, Statute,

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ORDER

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HON'BLE JUSTICE SRI. B.SUDHEENDRAKUMAR : PRESIDENT

The revision petitioner is the 1st opposite party in C.C.No.505/2024 on the files of the Consumer Disputes Redressal Commission, Ernakulam ('the District Commission' for short).

2. The complainant is a retired Head Master aged 78 years. He was a beneficiary of Medisep Scheme introduced by the opposite parties in collaboration with the 1st opposite party. On 07.01.2024 at 11a.m., the complainant was taken to a nearby hospital in connection with a severe chest pain. During the initial treatment, the complainant's heart stopped functioning for a while. Due to emergency, the complainant was referred to Rajagiri Hospital. The complainant was treated there as inpatient. The complainant had to spend an amount of Rs.2,16,000/-(Rupees Two Lakh Sixteen Thousand only) in connection with the treatment. The complainant submitted a claim before the 1st opposite party which was rejected by them. In the said circumstances, the complainant filed the above complaint.

3. During the pendency of the said complaint, the 1st opposite party filed I.A.No.1146/2024 before the District Commission praying for hearing the

maintainability of the complaint as a preliminary issue. It was alleged that since the Government of Kerala had implemented Medisep Grievance Redressal mechanism, the complainant ought to have approached the authorities under the said mechanism, before resorting to file a consumer complaint and since the complainant did not resort to approach the authorities envisaged under the scheme, the consumer complaint was not maintainable. In the said circumstances, the District Commission ought to have found that the complaint was not maintainable.

4. The District Commission, after hearing both sides and considering the relevant inputs, found that the complaint was maintainable in view of Section 100 of the Consumer Protection Act, 2019. Aggrieved by the said order, this revision petition has been filed.

5. Since there had been no representation for the respondents, we have appointed Advocate Narayan R. as the amicus curiae to argue the case for the 1st respondent/complainant.

6. Heard the learned counsel for the revision petitioner and the learned amicus curiae. Perused the records.

7. The learned counsel for the revision petitioner has submitted that in view of the inhouse mechanism envisaged under the Medisep Scheme as per G.O.(P)No.76/2022/Fin. Dated 27.06.2022, the consumer complaint is not

maintainable before resorting to the inhouse mechanism envisaged under the above said scheme.

8. The learned amicus curiae, on the other hand, has submitted that, since no statutory body was constituted under any act to exclusively deal with the matters relating to the claims under the Medisep scheme, the complainant had every right to file the consumer complaint before the District Commission without resorting to the inhouse mechanism envisaged under the above said scheme.

9. The Hon'ble Apex Court in *The Chairman, Thiruvalluvar Transport Corporation Vs. Consumer Protection Council* (AIR 1995 SC 1384 : 1995 KHC 455) considered the question as to whether the National Consumer Disputes Redressal Commission constituted under S.20 of the Consumer Protection Act, 1986 had jurisdiction to adjudicate upon a claim for compensation arising out of a motor vehicle accident, notwithstanding the jurisdiction conferred on a Claims Tribunal constituted under the Motor Vehicles Act, 1988 and held that the National Commission had no jurisdiction, whatsoever, to adjudicate upon a claim for compensation arising out of a motor vehicle accident, as the Motor Vehicles Act, 1988 had created a Forum before which the claim could be laid if the claim arises out of an accident caused by the use of a motor vehicle.

10. Section 100 of the Consumer Protection Act provides that the provisions of the Consumer Protection Act, 2019 shall be in addition to and not in derogation of the

provisions of any other law for the time being in force. Therefore, the Consumer Commission is having jurisdiction to entertain a complaint relating to claims under the Medisep scheme, particularly when there is no statutory authority to exclusively deal with the matters relating to the claims under the Medisep scheme. For the said reason, the Consumer Commission is having jurisdiction to entertain the present consumer complaint. In the said circumstances, the District Commission was perfectly justified in holding that the complaint is maintainable.

In the result, this revision petition stands dismissed.

The District Commission shall proceed with the complaint in accordance with law. Needless to state that the District Commission shall consider all issues independently and untrammelled by any of the observations in the order passed by the District Commission.

Before parting with, we place on record our appreciation to the learned amicus curiae Advocate Narayan R. for the valuable assistance rendered by him in disposing of this revision petition.

JUSTICE B. SUDHEENDRA :

PRESIDENT

KUMAR

AJITH KUMAR D. :

JUDICIAL

MEMBER

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SRI.B.SUDHEENDRA KUMAR
PRESIDENT