

(2010) 04 DEL CK 0205

Delhi High Court

Case No: M.A.C. Appeal No. 272 of 2010

Bajaj Allianz General Insurance
Co. Ltd.

APPELLANT

Vs

Vanshika Mad an and others

RESPONDENT

Date of Decision: April 27, 2010

Acts Referred:

- Evidence Act, 1872 - Section 74, 81

Citation: (2011) ACJ 2138

Hon'ble Judges: S.N. Dhingra, J

Bench: Single Bench

Advocate: Atul Nanda, for the Appellant;

Final Decision: Dismissed

Judgement

Shiv Narayan Dhingra, J.

This appeal has been preferred by the insurance company against an award dated 8.1.2010. The ground taken in the appeal is that learned Tribunal failed to take into consideration the licence verification report which bears endorsement of District Transport Officer. This was a public document within section 74/81 of the Indian Evidence Act and the court could not have ignored it. It is submitted that as per licence verification report the licence held by the driver was not a valid licence and, therefore, the liability of the insurance company to pay compensation was wrongly fixed by the Tribunal. In any case the insurance company should have been given a right to recover amount from the owner.

2. A perusal of the award would show that the plea of driving licence verification report was taken before the trial court and the trial court made following observations:

I have perused the record and have also scrutinized the evidence that was adduced on behalf of R-2 in support of their contention. Thrust of the arguments extended

on behalf of R-2 was upon an alleged driving licence verification report which was procured by the surveyor Sukhvinder Singh Notra from DTO, Hoshiarpur, which he had appended along with his investigation report and submitted it to the insurance company. It is to be taken note of that surveyor, who as per R2W1, Senior Executive (Legal) from the insurance company, was still on the panel of the insurance company, did not enter the witness-box to prove his report. It is also to be noted that admittedly neither the application nor the fee slip for procuring the verification report from the concerned authority had been filed on record and, therefore, driving licence verification report in itself has not been proved. Even otherwise, this secondary evidence becomes immaterial in the wake of the testimony of R2W2, Beant Singh, the concerned clerk from DTO, Hoshiarpur, Punjab, who himself entered the witness-box and testified that the driving licence of R-1 bearing No. 13051 REN/30/01/07 was renewed on 30.1.2007 and was valid up to 29.1.2010 for driving scooter/LMV/HTV. It was also deposed by him that the said driving licence had been renewed against the driving licence bearing No. 11815REN/04 on 27.1.2004 in the name of R1 Surinder Singh a/o Sarwan Singh which was valid from 27.1.2004 to 26.1.2007 and this licence in turn was renewed against the driving licence bearing No. 7382/R/01/02 but the record of which had not been summoned. As per R2W2, the driving licence bearing No. 13051 REN/30/01/07 was valid on the date of accident.

It is to be noted that the purported driving licence verification report which was allegedly procured by the investigator from the DTO, Hoshiarpur, was not put to the said witness as regards its genuineness.

The perusal of the record further reveals that vide the application which was moved on behalf of R-2 for summoning the said witness from DTO, Hoshiarpur, Punjab, the only record asked for was the record of the driving licence bearing No. 13051 REN of Surender Singh, a/o Sarwan Singh, which was valid for the period 30.1.2007 to 29.1.2010. Even after the witness entered the witness-box and produced the record of the previous driving licences of R-1 on the basis of which the existing and valid driving licence was issued, the counsel for R-2 did not press for the witness being asked to bring any further record from the authority. Therefore, from the testimony of R2W2, it is established that the present licence of R-1 was the valid licence on the date of accident having been renewed on the basis of his previous licence bearing No. 11815REN which was rendered on the basis of driving licence bearing No. 7382/R/01/02.

3. It is apparent that the plea taken by the appellant that the driving licence was fake, was rightly rejected by the trial court. It is also not true that a driving licence verification report obtained by an investigator of the appellant has to be treated as a public document. Section 74 of the Indian Evidence Act reads as under:

74. Public documents.--The following documents are public documents-

(1) Documents forming the acts or records of the acts,--

(a) of the sovereign authority,

(ii) of official bodies and the tribunals, and

(iii) of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country;

(2) Public records kept in any State of private documents.

4. It is clear from perusal of above section that an unproved verification report obtained from a department by a private person cannot be treated as a public document and such a verification report has to be proved like any other document. I find no force in this appeal. The appeal is liable to be dismissed and is hereby dismissed